# DOCUMENT RESUME

ED 148 671 SO 010 550

| | |
|---|---|
| AUTHOR | Carlson, Kenneth; And Others |
| TITLE | Citizen Court Watching: The Consumer's Perspective. |
| INSTITUTION | Abt Associates, Inc. Cambridge, Mass. |
| SPONS AGENCY | National Inst. of Law Enforcement and Criminal Justice (Dept. of Justice/LEAA), Washington, D.C. |
| PUB DATE | Oct 77 |
| CONTRACT | J-LEAA-030-76 |
| NOTE | 161p.; Not available in hard copy from EDRS due to small type size of parts of the original document |
| AVAILABLE FROM | Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (price not available) |
| EDRS PRICE | MF-$0.83 Plus Postage. HC Not Available from EDRS. |
| DESCRIPTORS | *Action Programs (Community); Action Research; Case Studies; *Citizen Participation; Citizen Role; Court Litigation; *Court Role; Courts; Evaluation; Guidelines; Inspection; Justice; *Legal Education; Legal Problems; *Needs Assessment; Observation; Program Descriptions; Program Development; Projects; Research Projects; *Social Action; Social Attitudes; State of the Art Reviews |
| IDENTIFIERS | League of Women Voters |

ABSTRACT

The document presents a state-of-the-art review of citizen court watching projects. It examines two particularly well-documented projects, and offers guidelines for citizen effort in court improvement. Citizen court watching is interpreted to include unofficial court monitoring, observation, and recommendation for reform by citizen groups and individual citizens. The document is presented in five chapters. Chapter I identifies volunteers as the usual participants in court watching projects and characterizes the three main types of projects (defendant protector projects, law and order projects, and specific data projects). Chapters II and III describe the development, operations, and findings of the League of Women Voters' Court Watching Project in Illinois and the Family Court Monitoring Project of the Fund for Modern Courts in New York. Chapter IV summarizes criminal and civil court-watching projects in Arizona, California, Ohio, Pennsylvania, and Washington. Chapter V presents guidelines for citizen court watching groups, including establishing goals and objectives, managing and administering programs, recruiting and training citizens, using the media, communicating with the judiciary, and evaluating programs. The booklet concludes with the statement that court watching projects should be viewed as vehicles for improvement in court procedure and as a means of raising public consciousness on criminal justice issues. Data from the Illinois and New York case studies are presented in the appendix. (Author/DB)

Documents acquired by ERIC include many informal unpublished materials not available from other sources. ERIC makes every effort to obtain the best copy available. Nevertheless, items of marginal reproducibility are often encountered and this affects the quality of the microfiche and hardcopy reproductions ERIC makes available via the ERIC Document Reproduction Service (EDRS). EDRS is not responsible for the quality of the original document. Reproductions supplied by EDRS are the best that can be made from the original.

ED148671

# CITIZEN COURT WATCHING: THE CONSUMERS' PERSPECTIVE

U.S. DEPARTMENT OF HEALTH,
EDUCATION & WELFARE
NATIONAL INSTITUTE OF
EDUCATION

THIS DOCUMENT HAS BEEN REPRODUCED EXACTLY AS RECEIVED FROM THE PERSON OR ORGANIZATION ORIGINATING IT. POINTS OF VIEW OR OPINIONS STATED DO NOT NECESSARILY REPRESENT OFFICIAL NATIONAL INSTITUTE OF EDUCATION POSITION OR POLICY

Kenneth Carlson
Lewis Morris
Robert Spangenberg
Debra Whitcomb

October 1977

Prepared for the National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, U.S. Department of Justice, by Abt Associates Inc., under contract number J-LEAA-030-76. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the U.S. Department of Justice.

Office of Development, Testing, and
Dissemination
National Institute of Law Enforcement and
Criminal Justice
Law Enforcement Assistance Administration
U.S. Department of Justice

BEST COPY AVAILABLE

SO 010 550

NATIONAL INSTITUTE OF LAW ENFORCEMENT
AND CRIMINAL JUSTICE

**Blair Ewing**, *Acting Director*

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

**James M. H. Gregg**, *Acting Administrator*

---

For sale by the Superintendent of Documents, U.S. Government Printing Office
Washington, D.C. 20402
Stock No. 027-000-00503-4

# ABSTRACT

Citizen court watching efforts have proliferated with the recent trend toward open government and decision-making at all levels. By observing a court's proceedings on a regular basis for a specified period of time, trained court monitors are able to recognize and document inadequacies and to press for their remediation. Their accomplishments range from installing information booths in courthouse lobbies, to posting daily calendars and notices of defendants' rights outside courtroom doors, to developing standards for determining indigency for assignment of public defenders.

This report begins with a "state-of-the-art" review of current court watching projects, discussing their broad range of goals, objectives, and day-to-day operations. Two particularly well-documented projects – the League of Women Voters' Court Watching Project in Illinois and the Family Court Monitoring Project of the Fund for Modern Courts in New York – are described in detail, focusing on development, operations, findings and results. Several other projects are briefly summarized.

Drawing on the successes and failures of these experiments in court watching, the review turns to a synthesis of the various elements necessary to a successful citizen effort in court improvement. Among the issues considered are establishing appropriate goals and objectives, recruitment and training of monitors, proper use of the media, communications with the judiciary, and evaluation.

By developing a sufficiently rigorous program of observation and documentation, court watchers can insu[illegible]hat their findings and recommendations will warrant serious consideration and stand up to judicial scrutiny. Existing projects as well as those in formative stages can benefit from understanding the issues and suggestions contained in this document.

For further information concerning the policies and procedures of the Illinois Court Watching Project and the New York Court Monitoring Project, contact:

Barbara Fenoglio
Project Director
League of Women Votors of Illinois
67 E. Madison St., Room 1408
Chicago, Illinois 60603
(312) 236-0315

Sondra Solomon
Project Director
Court Monitoring Project
The Fund for Modern Courts, Inc.
36 West 44th Street
New York, New York 10036
(212) 869-1130

## TABLE OF CONTENTS

CHAPTER I: STATE-OF-THE-ART 1

1.1 Overview 1
1.2 Who Participates in Court Watching Projects 3
1.3 What Types of Court Watching Projects Exist 3

CHAPTER II: ILLINOIS COURT WATCHING PROJECT 7

2.1 Organizational Structure 8
2.2 Soliciting Cooperation with the Judiciary 10
2.3 Court Selection 10
2.4 Recruiting Monitors 11
2.5 Training Monitors 12
2.6 Operational Procedures 13
2.7 Results 15
2.8 The Future – Toward Institutionalization 23

CHAPTER III: COURT MONITORING PROJECT OF THE FUND FOR MODERN COURTS OF NEW YORK CITY 27

3.1 Monitoring the Criminal Courts 27

  3.1.1 Recruitment and Training 28
  3.1.2 Cooperation of the Judiciary 29
  3.1.3 Findings, Recommendations and Results 30

3.2 Monitoring the Family Courts 32

  3.2.1 Special Considerations 33

CHAPTER IV: OTHER COURT WATCHING PROJECTS 35

4.1 Criminal Court Projects 36

  4.1.1 Arizona 36
  4.1.2 California 37
  4.1.3 Ohio 38
  4.1.4 Pennsylvania 40
  4.1.5 Washington 41

4.2 Civil Court Projects 42

CHAPTER V: PROGRAM GUIDELINES 45

5.1 Establishing Goals and Objectives 45

5.1.1 Clearly Defined Goals 45
5.1.2 Objective vs. Subjective Goals 46
5.1.3 Project Capabilities 47

5.2 Types of Program Goals 47

5.2.1 Assessing Court Personnel and Facilities 48
5.2.2 Assessing Court Organization and Procedures 48
5.2.3 Assessing Inequities in the Administration of Justice 49

5.3 Program Management and Administration 53

5.3.1 Advisory Committee 54
5.3.2 Funding Requirements and Staff 54
5.3.3 Recruitment 56
5.3.4 Training 59
5.3.5 Communications with the Judiciary 64
5.3.6 Use of the Media 66

5.4 Assessment of Achievement 68

5.5 Summary 71

APPENDICES

Appendix A: Data Collection Forms, Illinois Court Monitoring Project 73

Appendix B: Summary of Recommendations, Illinois Court Watching Project 87

Appendix C: Court Monitor's Handbook (Criminal Courts), Fund for Modern Courts, New York 91

Appendix D: Court Monitor's Handbook (Family Courts), Fund for Modern Courts, New York 121

### GOT A MOMENT?

We'd like to know what you think of this document.

The last page of this publication is a questionnaire.

Will you take a few moments to complete it?
The postage is prepaid.

Your answers will help us provide you with more useful documentation.

# CHAPTER I: STATE OF THE ART

## 1.1 Overview

Organized citizen courtwatching is a relatively new phenomenon that has grown rapidly in the last ten years. Until the last decade, ordinary citizens were seldom able to assume a constructive role in the judicial process. Historically, even the legal system's critics, trained in the Anglo-Saxon tradition of American law, assumed that justice was the exclusive province of a legally trained elite. Besides, it was argued, the constitutional guarantee of the right to trial by jury of one's peers seemed to assure the proper measure of democracy in the courtroom.

Recent years, however, have seen a precipitous decline in public confidence in the major institutions of society, the courts among them. The lower criminal courts have begun to receive intense public scrutiny. The 1967 President's Commission on Law Enforcement and the Administration of Justice reported that it was "...shocked by what it has seen in some lower courts...It has seen cramped and noisy courtrooms, undignified and perfunctory procedures, and badly trained personnel..." According to the Commission, the outcome was "assembly line justice."

Many citizens have had contact with the courts as jurors or witnesses, experiences which have provided them with an inside view of the current problems of the courts. Long docket delays, multiple continuances of criminal cases, and physical decay of many local courthouses have aroused increasing public concern.

The National Advisory Commission on Criminal Justice Standards and Goals has recently stated:

> "...court processing of criminal defendants as well as the interfacing of that process with other aspects of the criminal justice system takes place within the realm of legitimate public scrutiny...For those directly involved in criminal matters, as victims, witnesses, or defendants, the way in which the case is treated is of immediate importance. Even individuals not directly involved in particular cases often exhibit interest in judicial activity related to crime, both because of a legitimate interest in being protected against criminal behavior, and because of widespread interest in crime and criminals as a general matter...A law-abiding atmosphere is fostered by public respect for the court process. Such attitudes correspondingly suffer when public scrutiny results in public dissatisfaction. The perception the community has of the court system also may have a direct impact on court processes, as when it affects the willingness of members of the community to appear as witnesses, serve as jurors, or support efforts to provide courts with adequate resources."

The problem has been stated best perhaps by Leonard Downie, Jr., in his recent book, Justice Denied, The Case for Reform of the Courts. Mr. Downie declares, "It is not enough for worried Americans to lock their doors, buy guns, complain about Supreme Court decisions, or conversely, to criticize those who do. It is not enough to complain that the law is wrong, the courts are unresponsive, the judges lazy and the lawyers greedy...It is time instead for citizens to go down to the local courthouse, look around, and learn to understand what happens there."

In the last decade, organized groups of citizens in California, Connecticut, Ohio, Missouri, Massachusetts, Illinois, New York and many other states have been doing just that. They have been recruiting and training citizens to serve as unofficial court monitors, observing court proceedings and identifying problems from a consumer's perspective.

## 1.2 Who Participates in Court Watching Projects

Under the best possible circumstances, court watching projects are staffed by relatively heterogeneous groups of people who have received intensive training in the nature of the project in which they are participating, as well as in court procedures and observational techniques. Diversity among the group is desirable in that it permits the group as a whole to relate both to the cross-section of society which appears before the courts, and to the officials of the courts themselves. Training is important, since the language and procedures used in public courtrooms can often be confusing to uninitiated observers; such confusion may thus prevent them from collecting accurate data or drawing informed conclusions.

Clearly, however, many projects are unable to achieve either a significant amount of diversity among their participants, or to provide a significant amount of training. Due to funding constraints, most projects must be staffed primarily by volunteers. Since court watching is generally a full-day activity, volunteers most frequently are persons who have large blocks of leisure time at their disposal--students, homemakers, and retirees, mostly from middle-class backgrounds. Moreover, the nature of those organizations which most often undertake court watching projects--including the American Civil Liberties Union, the League of Women Voters, the American Friends Service Committee, church groups, etc.--more narrowly defines the types of people who will be participating in the projects. Funding constraints also influence the amount and quality of training provided to participants, since staff time for such activities is often limited. Court watchers thus undergo training which may last as long as two weeks, but which is often as short as a few hours. However, several court watching groups have now published manuals (e.g., the Court Action Handbook prepared by the Friends Suburban Project in Pennsylvania, or How to Watch a Court, published by the League of Women Voters of Illinois) which serve as general training tools.

## 1.3 What Types of Court Watching Projects Exist

Court watching projects cover a broad range of activities, from general, public education efforts to inform citizens about court procedures and problems, to more specific efforts such as attempts to promote certain legislative reforms for the judicial system. The activities of these projects are naturally related to their stated and implicit goals. Thus some projects seek merely to maintain a "public presence" in the courtroom, while others make detailed recommendations to judges and department heads, and lobby to encourage court reform through state legislative action.

In a survey of court observer programs, Marianne Stecich has characterized projects in three broad groupings: defendant protector projects, law and order projects, and specific data projects.*

Defendant Protector Projects are those whose aims are: (1) to protect the rights of criminal defendants, either through court reform or by educating the defendants themselves; and (2) to detect and/or document instances or patterns of discrimination in the courtroom. Defendant protector projects are most frequently undertaken by libertarian organizations such as the American Friends Service Committee and the American Civil Liberties Unions, and participants frequently view themselves as the "consciences of the court." Among the specific projects pursued by defendant protector groups are the following:

- compiling booklets of court procedures and defendants' rights, to be distributed in city jails and through community agencies;
- setting up information desks in municipal court entry halls;
- evaluating the methods and procedures used by attorneys representing indigents in criminal actions;
- drawing up proposals to be presented to court officials (e.g., redistribution of judges' workloads, new methods of jury selection, reform of bail or sentencing procedures, institution of public defender programs, provision of interpreters for non-English speaking defendants).

---

* Marianne Stecich, "Keeping an Eye on the Courts: A Survey of Court Observer Programs," Judicature, Vol. 58, No. 10 (May 1975), pp. 468-479.

Law and Order Projects represent an "opposing viewpoint" to defendant protector groups. Essentially, their goal is to pressure judges into delivering more severe sentences in certain types of cases, to reduce what they view as a distressing permissiveness in courtroom activities. Law and order projects are somewhat less common than defendant protector projects; perhaps the best known is Citizens for Law and Order (CLO) in California. Court watchers in this group publish a monthly newsletter which includes criticisms and commendations of judges, given on the basis of the leniency/severity of sentences which they have recently handed down. Other specific activities of CLO have included:

- initiating recall of judges viewed as unduly lenient;
- opposing liberal judges during re-elections.

Specific Data Projects may be characterized by their function, rather than their particular underlying position. This function is usually a research-oriented one; court watchers collect specific information or statistics for various types of studies and surveys. Training is especially important for participants in this type of project, since accurate data collection often depends on the participant's ability to understand courtroom jargon and to perceive certain subtleties in quickly-moving courtroom procedures. In addition, consistent attendance on the part of observers is essential. While data of a specific nature are often required by these projects, some have a more general goal, such as describing "conditions" in city courts or reporting on the operation of the bail system. Among the more rigorous activities undertaken by specific data projects are the following:

- a time-cost analysis of a family court system, involving the completion of questionnaires on court personnel and attorneys, case types, time elapsed per case, number and cause of adjournments, etc.;
- a comprehensive management study of a statewide court system, involving detailed data collection on court business, personnel, and physical facilities in the circuit, common pleas, and superior courts.

Many of the issues addressed by all three types of projects require consistent observational data collected by a concerned and interested citizenry. Questions such as "Are courtrooms and facilities readily located by participants and the public?" may easily be answered by attentive observation. Other issues require a more thorough orientation to the criminal justice process. "Are defendants being properly informed of their rights?" is an example of questions in this category. Still others--particularly those which relate to questions regarding sentencing practices and disparity or inequalities of treatment--require a heightened sensitivity to the complexity of the criminal justice process and the range of variables which affect judicial decisions.

It is this latter category of questions that should be viewed with extreme caution by any project. Attempts to substantiate a claim of discrimination or to rank members of the judiciary according to perceived leniencies or severe sentencing practices can easily result in distorted findings, damaging the credibility of the most sincere monitoring efforts. The program guidelines in Chapter V will discuss in greater detail measurement problems associated with this class of questions.

The purpose of this monograph is to describe some recent court watching projects, identify issues and problems, and develop solutions to some of those problems. The material that follows includes a detailed description of two court watching projects (the Illinois Court Watching Project and the Court Monitoring Project of the Fund for Modern Courts of New York), a summary of other court watching projects, and guidelines to consider in designing a project.

# CHAPTER II: ILLINOIS COURT WATCHING PROJECT

Under the leadership of the League of Women Voters (LWV) of Illinois, the Illinois Court Watching Project was established in July of 1974. The project was conceived as a research program to identify problems in the courts that are causing loss of respect and noncooperation on the part of the citizens they serve. The program was funded by the Illinois Law Enforcement Commission (ILEC) and received $50,000 in 1974, $50,000 in 1975, and $30,000 in 1976.

During the first year of operations, projects were established in four counties throughout the state. Three additional projects were added in the second year. The third and final year has involved the development of 10 "mini-projects" downstate.

Since 1974, over 700 citizen volunteers have been trained to monitor courts. Court watchers recorded information on continuances, victimless crimes, and physical facilities as well as on the conduct of judges and other court personnel. Data were collected on more than 81,980 court proceedings. Following analysis of these data, each local project submitted confidential reports to the Chief Judges of the Circuits observed, other appropriate court officials, local bar associations and the state project.

As a result of these efforts, a number of improvements are being implemented in many of these courts, mostly in the area of better information for and treatment of defendants, victims and witnesses. Specifically, they include:

- the posting of defendant's rights, daily calendars, and instructions about procedures to be followed;

- establishment of central information facilities;
- preparation of informational brochures for witnesses and jurors;
- stricter procedures for granting continuances;
- explanations by judges about procedures addressed to the public;
- stationing of bailiffs in courtrooms before sessions to answer the public's questions; and
- better training of bailiffs and other court officers for their jobs.

In addition, the League's State Project Steering Committee has evaluated the local reports and has made recommendations for rule changes and procedural reform to the Illinois Supreme Court. Committees of the Illinois Judicial Conference are presently reviewing the reports. The Steering Committee is also considering possible recommendations for legislative change.

## 2.1 Organizational Structure

Following receipt of grant funds in July of 1974, the League of Women Voters of Illinois established a State Steering Committee composed of representatives of the Illinois State Bar Association and other organizations interested in the criminal justice system. Later, local project chairpersons and criminal justice experts were added to the Committee. The State Steering Committee was charged with the responsibilities of setting policy, advising staff and local projects, acting as liaison with the local judiciary and bar, and preparing final reports on the state project for the LWV, ILEC, the Illinois Judicial Inquiry Board, the judiciary and the public.

In the early stages of program development, information was circulated around the state announcing the new program and encouraging local Leagues to apply for project funds. The original projects, except for the predetermined Cook County project, were selected by the League of Women Voters of Illinois; these projects were located in DuPage, Champaign, and Warren Counties. The decision to provide support for the three projects in 1974 was based upon a review of 14 applications submitted by local Leagues requesting the initiation of a project in their communities. In the second year court watching projects were initiated in St. Clair, Rock Island and Winnebago Counties.

Once a project site was selected, the local LWV was responsible for establishing an advisory committee and hiring a project coordinator. The size of the committee varied with the size of the community, numbering from six to twelve. In new project areas, the LWV representative served as temporary chairperson until the group could elect its own. The local committee was responsible for:

- the recruitment and training of monitors;
- selection of courts to be monitored;
- tabulation of the data; and
- preparation of the draft report.

During the first year of operation, paid project staff consisted of two full-time persons in the state project office, a law student research assistant for six weeks, and five part-time local project coordinators (two in Cook County and one in each of the three downstate counties). The second year staff remained the same except for an increase to eight part-time local project coordinators (two in Cook County and one in each of the six downstate counties). Because of funding cutbacks in the final year, paid staff now consists of only two full-time persons in the state office and one part-time (2 days a week) executive director for the Cook County project.

The state program provided both fiscal and technical support to local projects during the first two years of operation. Funds were provided to employ the local coordinator on a one- or two-day-a-week basis. Additional funds were available for such items as supplies, postage, typewriters and some travel. Technical assistance from the state office included answering questions on a daily basis, providing contacts with the local judiciary and local bar association, supplying copies of the training manual and observation forms, and assisting the local project in preparing and publishing the final report.

To insure the continuation of the project following funding cutbacks in 1976-77, several organizational changes had to be instituted. Paid staff were eliminated in all downstate projects except Winnebago, where local funds were raised. This placed the responsibility for scheduling and supervising monitors and tabulating data on volunteers. The lack of this one-day-a-week staff person may discourage some local Leagues from starting even limited demonstration projects.

In addition, due to the size of Cook County and the same reduction in funding, that project was localized to a greater extent in 1976-77. Subcommittees comprised of court monitors were set up in each municipal district by the project's Citizens' Committee, which in turn is served by an advisory board made up of attorneys and other criminal justice experts.

### 2.2 Soliciting Cooperation with the Judiciary

Unlike some court monitoring projects, the Illinois program actively sought cooperation from the judges at the start of each local project. It was felt that doing so would not only aid the project in its practical operation but would also interest judges and other personnel in the project, thus setting the stage for a more sympathetic reception to later project recommendations. All projects were instructed to explain the program to the chief judge and to ask his help in training monitors, providing special courtroom seating arrangements and supplying court calendars in advance. Judges were assured that draft reports of monitors' findings and recommendations would be discussed with them and where appropriate, their supplemental comments would be added to final reports before they were released to the public.

### 2.3 Court Selection

Under guidelines set down by the state office, local groups were permitted only to watch the lower criminal courts during the project's first two years. Most chose to observe either courts conducting misdemeanor cases or lower courts handling preliminary hearings in felony cases. In three of the downstate counties, the local committee simply selected the courtrooms in the county courthouse that had jurisdiction over misdemeanor cases.

In Cook County, with 150 such courtrooms hearing lower criminal cases, greater selectivity was required. The local committee chose to concentrate on those courtrooms in the City of Chicago where certain types of offenses were assigned to specialty sessions such as gun sessions, women's sessions and shoplifting sessions. Additional criteria were the availability of parking facilities and public transportation.

During the last year, some changes are taking place in the types of courts to be observed. Several downstate projects have recently explored the possibility of watching juvenile sessions, but this will probably be delayed for another year. In DuPage County, monitors are observing small claims courts. In Champaign County, the monitors are observing jury selection sessions. Finally, projects that are in their third year are beginning to return to courts that were monitored in the first year to assess whether project recommendations have been implemented since the original observations.

## 2.4 Recruiting Monitors

Recruitment of monitors is the responsibility of the local court watching committee. Volunteers have been recruited through a variety of methods including:

- Articles about the project in the local newspaper;
- Articles in bulletins or newsletters of various civic and religious organizations;
- Arrangements made with universities for students to receive credit for participation in the project; and
- Personal recruitment of volunteers by local steering committee members.

A profile of 309 monitors for the second year revealed the following demographic characteristics:

## TABLE 1

| Age | | Sex | |
|---|---|---|---|
| Under 30 | 22.7% | Women | 77.7% |
| 30 to 60 | 54.0% | Men | 22.3% |

| Racial/Ethnic Background | | Occupation | |
|---|---|---|---|
| White | 95.2% | Employed Persons | 11.7% |
| Black | 4.5% | Housewives | 49.8% |
| Latino | .3% | Students | 24.6% |
| | | Retirees* | 13.9% |

**Included retired teachers, professors, a president of a large industrial company, nurse, publisher, surgeon, church missionary, civil servant*

As with most court watching efforts, the fact that the work is to be performed during the day results in the heavy use of housewives, students, and retirees.

About one-third of the monitors were LWV members. Other organizations contributing monitors included: the Voluntary Action Centers, Pre-Law Club of the University of Illinois, American Association of University Women, Parents Without Partners, American Association of Retired Persons, 14th District Women's Club, Church Women United and other church groups, the Junior League of Chicago and Evanston, National Retired Teachers Association and the Illinois Farm Bureau.

### 2.5 Training Monitors

The local court watching committee is also responsible for training monitors. New recruits are supplied with copies of How to Watch a Court (about misdemeanor proceedings), and How to Watch a

Court, Part II (about felonies), which are required reading before the first training session.

At the first two training sessions, the local project coordinator and a volunteer lawyer explain local court rules and procedure. The typical agenda also includes a review of the handbook, information about local court personnel, practical instructions about where to sit in court and a detailed explanation of how to fill out the various forms (see Section 2.6). Monitors are then asked to observe several court proceedings on their own. Their work is reviewed and if unacceptable, they are given a less demanding court watching assignment. The final training session, which is usually held after the regular court monitoring has started, has a question and answer format intended to solve problems that have arisen and to answer monitors' questions.

## 2.6 Operational Procedures

Each monitor was asked to observe the proceedings in a particular court one day every two weeks for four to five months. Scheduling was arranged by the local coordinators to assure as much coverage as possible for each session of the court without placing an unusually heavy burden on any individual monitor.

Two basic forms were used by the volunteers in their monitoring work: the Case Observation Form and the Daily Summary and Evaluation Sheet (see Appendix A). These forms were designed to facilitate recording and tabulation of case-by-case information in busy courtrooms.

On the Case Observation Form, monitors catalogue information on each proceeding observed in the courtroom including: the name of the defendant and charge, whether it was a victimless crime (as defined by the project), requests for continuances (who made them, reason given, whether granted), pleas and whether admonishments were given before a guilty plea was accepted.

Totals for each category are entered on a four-page Daily Summary and Evaluation Sheet; additional information is recorded concerning promptness and length of session, conduct of judges, clerks and bailiffs, and physical facilities.

Data recorded by monitors and appropriate narrative comments and explanations are submitted to the local coordinators who tabulate the information on Weekly Tabulation Forms. A separate set of forms is kept for each courtroom under observation, thus providing a week-by-week picture of its proceedings. Two copies of each form are made, with the original sent to the state project office and the carbon kept for the local committee.

Each local project is provided with a form to facilitate its year-end reporting of project findings, recommendations, and judges' responses to the state project, the judiciary and the public. The form includes the following elements:

- A brief introductory history of how, when and why the project came about with emphasis on local conditions.
- A narrative summary highlighting the monitors' findings and committee recommendations as well as responses of court officials to those recommendations.
- Profiles of individual courtrooms.
- Recommendations including a compilation of data for all local courts observed covering Information and Service Facilities, Physical Facilities, Procedures, Prosecutions of Victimless Crimes, and Behavior of Judges, Clerks and Bailiffs. At the end of each category is a space for committee recommendations and judges' comments.
- Conclusions, including suggestions for further study and changes in methodology.
- Appendices (List of all local courts hearing misdemeanors; monitor profile by age, sex, occupation, racial/ethnic background, organizational affiliation; and a list of local committee members.)

The entire report is sent to the local judiciary with a request for a conference to answer any questions and to begin the process of negotiating for the recommendations contained in the report. The final report is then sent to the state steering committee and ultimately becomes a part of their final report to the Illinois Law Enforcement Commission. The introduction and summary are written so that they can be used separately in a report to the local community.

## 2.7 Results

The goals and objectives of the Illinois Court Watching Project have been many and varied throughout the life of the project. At the outset, the immediate goals were to collect baseline data on factors affecting the quality of justice in selected lower criminal courts, to analyze such data and to recommend and support changes where indicated. To accomplish this:

- 250 monitors were trained by volunteer attorneys and assigned to courts in 1974-75; 309 in 1975-76; 370 in 1976-77.

- 22 courtrooms were observed daily, or as often as they were in session from January through June of 1975 and 27 courtrooms from January through May of 1976. In 1977, 39 courtrooms are under observation for periods ranging from one to four months.

- In the first two years of operation, data on over 65,000 proceedings in the lower criminal courts were collected. The performance of 78 judges was observed and evaluated in that period.

A variety of improvements in a number of courts are underway as a direct result of the project. The following examples are excerpted from "Citizens Size Up Their Courts," the 1975-76 report of the Illinois Court Watching Project.

## THE PROBLEM: NOWHERE TO TURN FOR DIRECTION

Finding the proper courtroom at the proper time may present a serious problem for people unfamiliar with the courthouse. Monitors found that only two of the six courthouses observed in Cook County provided adequate information facilities. In Champaign County, there is no information desk or graphic locator even though two courts are housed in outlying buildings. The consequences of reporting late to a trial or hearing, or of waiting in the wrong courtroom, may be serious--

> Today a party to a civil suit missed his hearing. I don't think he understood what was going on and went to the main courthouse instead of the Annex. Judgement was passed against him. (Champaign)

In response to the monitors' findings and recommendations, chief judges in DuPage, Winnebago, St. Clair, and Warren Counties have required their circuit courts to post daily calendars. In DuPage County a bailiff or other court officer is stationed in or near high-volume courtrooms 15 minutes before the start of each session to answer questions; red information telephones, manned by specially designated secretaries, have been installed on each floor of the courthouse. In Winnebago County funds have been requested for a "roving" bailiff to act as an information officer.

## THE PROBLEM: TOO LITTLE INFORMATION ABOUT RIGHTS AND PROCEDURES

Monitors frequently observed that explanations of rights and procedures were inadequate or simply nonexistent. Many lay persons sitting in a courtroom for the first time are thoroughly confused by the proceedings and "legalese" jargon.

> People don't know what the disposition of their case was, confused as to what they were to do when case dismissed, or how to handle fines. (St. Clair)

> I had the distinct impression (today) that the judge sitting last week had not explained rights adequately to some persons. Appearing today, they felt they had already made a plea or were not allowed to make the plea they wanted. It appeared they did not understand

> the proceedings or what was expected of them. (Rock Island)

Ignorance of rights and court proceedings is a serious problem for defendants. Illinois statute requires that notices of defendants' rights be posted in all courtrooms in which criminal cases are heard. Monitors found the notice displayed in only two of the 22 courts observed in Cook County during the project's first two years. In some courtrooms the notices were there but not conspicuous: in DuPage County the notices were kept under glass on the attorneys' table in the felony preliminary hearing court, and in Winnebago County they were posted behind the jury box. Courtrooms in Rock Island and St. Clair Counties did not display these notices at all.

Monitors also observed that judges did not always give the admonishments to defendants who pleaded guilty (i.e., informing them of the nature of the charge, the minimum and maximum sentences, the right to plead guilty or not guilty, and that if the defendant pleads guilty there will be no trial).

> Judge ________gave no admonishments whatsoever to three defendants who pleaded guilty to reduced charges. On four others, he asked if the defense attorney had informed the defendants of rights they were waiving. (Cook)
>
> Judge ________told me it wasn't always necessary to give admonishments because he has rapport with the attorneys and assumes they have given the defendants the admonishments. (Winnebago)

These problems are all compounded for non-English speaking or deaf defendants. Monitors observed great disparities among the courts in the availability of interpreters. For example, observers in DuPage County's felony preliminary hearing court recorded the appearance of 10 non-English speaking defendants in the 398 proceedings observed. In most cases, defendants brought their own interpreters or used persons working in the courthouse or sheriff's office; two were given court-appointed interpreters. In the remaining three instances, cases were continued or defendants went ahead on their own with the judge trying to speak slowly enough to be understood.

In response to the court watchers' recommendations, notices of defendants' rights are now prominently displayed in all courtrooms of Warren County. The First Municipal District of Cook County has prepared multi-lingual notices detailing defendants' rights. To further alleviate the problems of non-English speaking defendants, the state project recommended that the Illinois Supreme Court institute a system for certifying qualified court interpreters and for circulating lists of such interpreters to all judges who hear criminal cases.

## THE PROBLEM: FRUSTRATING DELAYS

Observers in nearly all the courts under study noted that continuances were freely granted, thus contributing to a large backlog of cases and the impression that justice would be delayed indefinitely. In Cook County, 58 percent of all the 6,528 felony preliminary hearings observed were continued; one suburban court had the highest rate (74%) of any of the 18 courts monitored throughout the state in 1975-76. A court in St. Clair County had a 73% continuance rate.

Court watchers also noted that few motions for continuances were denied:

| | COOK | | DUPAGE | CHAM-PAIGN | WARREN | ST. CLAIR | WINNE-BAGO | ROCK ISLAND |
|---|---|---|---|---|---|---|---|---|
| | City | Suburbs | | | | | | |
| Total Requested | 2760 | 1056 | 129 | 40 | 0 | 361 | 533 | 354 |
| Percent Denied | 1.5% | .6% | 4.0% | 0 | 0 | 7.2% | 6.0% | 2.8% |

Their comments illustrate their sense of frustration. Note that some perceptive individuals were able to pinpoint the causes of these delays.

> Of 38 cases heard, 21 were passed--four because defense attorneys were not in court. (Cook)

> Today's proceedings...plodding...make a mockery of justice. Witnesses sitting around all day only to be told a continuance has been granted or a plea negotiated. Probation officers spending unproductive hours waiting... (DuPage)

> I felt Judge ______was far too lenient in granting continuances. Out of 57 cases, only 7 were disposed of, rest continued. (Cook)

> There is only one police lab with two chemists for all narcotics cases. Lab reports take five to six weeks before they're ready. This makes the "30-day rule" impossible to enforce. (Cook)

Although no specific actions have been implemented to reduce the continuance rate, the state project did recommend that judges observe Illinois Supreme Court Rules stating that requests for continuance should be considered "so as to expedite the disposition of matters before the court".

## THE PROBLEM: INEQUITIES

Court watchers observed two areas in which the practice of various courts and judges resulted in unequal treatment of defendants: pre-trial release and assignment of public defenders.

A "mini-study" of 740 bond hearings in three courts in Cook, DuPage and Champaign Counties indicated that whether a defendant is released on cash bail or on his own recognizance appears to depend on (1) the county in which he is arrested, and (2) which judge happens to preside at his bond hearing. The following table reflects the variation among counties in the percentage of defendants released on their own recognizance.

## ROR'S BY COUNTY

| County | Total # Hearings | Percentage ROR's | # Judges Observed |
|---|---|---|---|
| Cook (Markham) | 425 | 32% | 7 |
| DuPage | 207 | 26% | 10 |
| Champaign | 108 | 18% | 1 |
| TOTALS | 740 | 27% | |

The variation among judges in the same county was even wider. In Cook County the percentage of ROR's granted per judge varied between 16 and 61 percent; in DuPage between none and 48 percent. In Champaign County, 19 percent of defendants with lawyers received ROR as compared to six percent of those without counsel.

> When questioned about the kind of information he had that was not brought out in open court, Judge ______ explained that he had been sitting on that bench for 20 years and had seen a number of defendants more than once--in some cases had had their fathers in court. He also said that he felt that a defendant who was represented by an attorney was more responsible and a better candidate for ROR. (Champaign)

As a result of the Court Watching Project's recommendations, the Illinois Supreme Court Judicial Conference held seminars for judges on conducting a proper bond hearing. The state committee also recommended a standardized system of pre-trial release procedures which utilizes non-judicial staff to interview defendants, record answers on a point-card scoresheet, verify data and present it to the judge to make the decision as to bail or ROR.

The court watchers also noted apparent discrepancies in the assignment of public defenders to indigent defendants.

> I have been somewhat disturbed throughout my court watching experience by the ease with which PD's are assigned. The procedure is invariably, "Can

> you afford a lawyer? No? Here's a PD." (Cook)

> Judge _____was strict about defendants' getting PD if they had any money up as bond. One black woman had borrowed $1,000 for her son's bond and had no money for a lawyer. The defendant is unemployed and apparently had no money for a lawyer, but the judge told him that since he had that bond his mother had paid for, he could not have PD ... (Cook)

Some court watchers questioned the quality of representation provided indigents by public defenders.

> Defendant had less than 15-minute discussion with PD to learn of and decide alternative...which will be 1-3 years in state penitentiary...(DuPage)

> If I were a defendant, I would want more thought and time to go into my case than is allocated by PD's... I understand this is because of the volume of cases. (Cook)

In an effort to provide more uniform assignment of public defenders, the state project recommended that the Illinois Supreme Court establish a standard to determine indigency.

## THE PROBLEM: POOR PHYSICAL FACILITIES

Court watchers were only expected to assess elements of the court's physical facilities that directly confronted citizens in the courts. Monitors were often impressed by the poor audibility, lack of space for people to confer with attorneys, discomfort for jurors and witnesses, and poor holding facilities for defendants brought from jail.

> Witnesses are frequently asked to leave the courtroom and they must stand for long periods in dimly lit, smoke-filled hallways. Lawyers confer with clients any place, often within earshot of spectators. (DuPage)

> Defendants and their families and lawyers mill around, filling the courtroom and backing up into the tiny hallway. It is difficult to keep the courtroom doors closed because space is so limited. (Champaign)

In St. Clair County, the court moved to a new County Services Building during the period of observation. Court watchers found that the new facility had quite a positive effect both on proceedings and the demeanor of court personnel.

> Court proceedings were much improved over past Belleville and East St. Louis proceedings. Sound is great and court moved in very orderly, judicial fashion.
>
> Now the jurors act more dignified. In East St. Louis they had a "so what" attitude and seemed more depressed.

Among the many recommendations dealing with courtroom facilities were closing the courtroom doors while in session and providing conference rooms for counsel and their clients. In addition, the steering committee suggested that the Illinois State Bar Association establish a statewide "Lawyer/Citizen Committee for Better Court Facilities". The Illinois Supreme Court has already commissioned a survey of all court facilities outside Cook County (which has already been surveyed); the Lawyer/Citizen Committee would work from the results of this study to help build public support for court improvements.

The court watchers' reports also contained many instances of improper or discourteous behavior on the part of courtroom personnel. In Cook County, the project's report brought positive results:

- All clerks have been cautioned to wear proper identification, including the jackets and name tags.
- All clerks have been reminded that it is their responsibility to be as courteous and efficient as possible.

- The clerk's office has established an Investigative Security Unit to monitor the performance of employees.

- Training of new employees at the Cook County Sheriff Deputy Training Academy has been increased from one to two weeks.

- Criminal courts deputies assigned to security clearance in the Criminal Courts Building will attend a training seminar including courtesy and information aspects of the security duties.

Appendix B to this Monograph contains a listing of all recommendations presented to the Illinois Law Enforcement Commission by the Court Watching Project's state steering committee.

## 2.8 The Future – Toward Institutionalization

Two specific long range goals were established and substantial efforts are underway to achieve these goals. One goal was to develop permanent, community-supported groups to monitor local courts, communicate their findings to the judiciary and the public, and support needed improvements. Towards this end, the four original projects -- Cook, DuPage, Warren and Champaign -- were given additional responsibilities during 1975-76 for their own operation which they successfully carried out:

- A total of $2,360 was raised locally by the four projects. This covered all expenses except salaries of part-time local coordinators and monitors' training materials.

- Each "old" project designed its own special study in other local courts. DuPage concentrated on field courts; Champaign on jury selection and jury trials; Cook on checking the 16 misdemeanor courts observed in 1975 to note whether promised changes had been made; Warren on a more in-depth study of its one lower criminal court.

A second goal was to produce an organizational model for citizen groups to use in setting up court watching in other communities.

- Methods and materials developed by the Illinois Court Watching project have aided other such citizen programs in Coles, Kane, Will and McDonough Counties in Illinois; a long-standing project in Peoria County has adopted the monitor report forms. In Cook County, the project has advised the Logan Square Neighborhood Association and the Alliance to End Repression.

- Counseling and sample materials have been provided to groups in New Mexico, Wisconsin, Montana, North Carolina, Ohio, Pennsylvania, Florida, Colorado, Connecticut, Arkansas, Michigan, New Jersey and Canada.

- Professional organizations have called upon the project too. The National Center for State Courts, Denver, requested information and purchased monitors' handbooks; the Center is now referring other organizations to the Illinois project. The American Bar Association solicited advice and materials to aid in setting up an educational project for a 4-H convention in Washington, D.C.

In 1976-77, the goal has been to institutionalize the citizen Court Watching Project in Illinois, both in existing project areas and in additional communities. To accomplish this goal, the project identified four specific objectives:

1) To self-fund continuing projects in Cook, DuPage, Champaign, Warren and Winnebago Counties on a volunteer basis;

2) To provide materials and give advice to citizen groups in Illinois and other states interested in developing monitoring projects in their local courts;

3) To set up ten new demonstration projects ("mini-projects"); and

4) To prepare a kit on the operation of local court watching programs so that the expertise developed over the past two years by the Illinois project will continue to aid citizen groups in Illinois and other

states after the conclusion of the statewide project.

As of January 1977, ten such mini-projects were underway in ten downstate counties. The state office has prepared a how-to-do-it kit, including memos which instruct potential projects in all phases of project development and operation:

Step 1: Setting up the Committee

Step 2: Putting the Committee to Work

Step 3: Introducing the Project to Court Officials

Step 4: Announcing Project to Community

Step 5: Recruiting Volunteers

Step 6: Training the Monitors

Step 7: Scheduling Monitors

Step 8: Distributing and Collecting Forms

Step 9: Tabulating the Data

Step 10: Making Recommendations for Court Improvements

Step 11: Negotiating with Court Officials

Step 12: Reporting to Your Community

The kit also contains forms, instructions for filling out forms, and weekly tabulation sheets. In January 1977, local project coordinators attended a training session designed by the state staff, during which time the kits were distributed.

The mini-projects involved court observations for only two months, March and April. Data were collected and tabulated and local groups submitted final reports to the state office on July 1, 1977. Meanwhile, in addition to the preparation and distribution of the kit, the state office has continued to provide technical assistance during the life of the mini-projects.

# CHAPTER III: COURT MONITORING PROJECT OF THE FUND FOR MODERN COURTS OF NEW YORK CITY

The Fund for Modern Courts, Inc. is a private not-for-profit organization started in 1955 with a goal of improving the court system in New York City. In January, 1975, the Court Monitoring Project of the Fund for Modern Courts, Inc. of New York City received an eight-month grant of $90,000 from the New York Division of Criminal Justice Services. The work on this project was completed in June of 1976 with the publication of a final report. Since that time, additional LEAA funds have been secured to continue the court watching effort--directed now at the Juvenile division of various Family Courts throughout New York state.

New York's Court Monitoring Project was modeled after Illinois' project; thus, the procedures and type of data collected are virtually identical to those described in Chapter II of this Monograph. The first part of this chapter will focus on differences between the Illinois project and New York's effort in the Criminal Courts; the second section will discuss aspects unique to the Family Court Project currently underway.

## 3.1 Monitoring the Criminal Courts

As in Illinois, a state advisory board was established to formulate policy and a statewide project coordinator was hired. Court watching programs were established in Poughkeepsie, Rochester, Glens Falls and New York City, each with a local advisory group and a local coordinator. In all, 388 volunteers monitored 23 local courts averaging over 4500 hours per month during the six-month observation period.

In June, 1976, the results of this effort were published in a final report with a summary of Statewide Conclusions and Recommendations and reports from each of the local projects. Three of the local projects have been institutionalized in their communities and are continuing to operate with occasional assistance and advice from the Fund.

### 3.1.1 Recruitment and Training

The approach taken by New York in developing a pool of qualified volunteers was somewhat more structured than Illinois' approach. Similar to Illinois' experience, however, the New York projects report a general ease in recruiting volunteer monitors. In many cases, the volunteers found the project after reading of its formation in local newspapers. As contacts were made, applicants were sent a brochure describing the project; if the volunteer retained interest, an interview was arranged. Each volunteer was interviewed before selection. The only initial screening requirements were:

- The volunteer must be at least 18 years of age.
- The applicant must commit one-half day per week for six months.
- The applicant must be willing to participate in approximately ten hours of training.

As in Illinois, because the monitoring took place during the day, the monitors were mostly limited to retirees, students, and housewives, except in Glens Falls, where the prevalence of night court enabled 29 employed persons to participate.

Training took place in April 1975 (prior to the pilot monitoring) and again in October 1975 (with revised forms and a larger population of monitors). The program involved three stages: court tours, in-class training, and in-training monitoring. Each monitor participated in at least ten hours of training.

Monitors were first taken on a tour of the local courts. During this process, monitors became familiar with the physical surroundings of the courts, and in many cases were able to obtain court calendars, identify court personnel and observe some court activity after the tour was given.

In-class training covered a two week period. Guest speakers (e.g., members of the judiciary, defense attorneys and District Attorneys) described the criminal case process from arrest to final disposition. The interactions of various offices and agencies in the system--Public Defenders' Office, Legal Aid Society, court clerks and court officers--were also explained to the monitors. A substantial portion of training was devoted to the methods of data collection. (The New York Court Monitor's Handbook for criminal courts is reproduced in Appendix C.)

In-training monitoring took place immediately following the classroom discussions and court tours. Volunteers were asked to begin trial monitoring with the forms prepared for actual work. The local coordinator maintained constant communication with the monitors during this initial period to correct mistakes and to insure accuracy.

After these three stages of training were completed, the volunteers were given permanent monitoring assignments.

### 3.1.2 Cooperation of the Judiciary

All four projects in New York reported unusual cooperation from judges and court personnel. Some judges conducted tours of the local courthouse for volunteer monitors; others met with the local advisory groups; still others invited monitors into their chambers to discuss interesting aspects of current cases and trials.

Project staff credit their good rapport with the judges to the fact that continuous efforts were made by the state advisory board and the local groups to keep the judges informed of the progress of each project. In each project area, initial contact was made with the local administrative judge and other judges in the courts to be observed. Project staff also acknowledge the total cooperation of State Administrative Judge Richard Bartlett.

Drafts of the final reports were submitted to the individual judges observed. In each case, their supplemental comments were attached to the final reports.

### 3.1.3 Findings, Recommendations, and Results

Monitors in New York's courts collected data in five areas:

1 - Citizen access to the courts (directional and information aids, daily calendars)

2 - Defendants' rights

3 - Physical environment and decorum

4 - Adjournments (corresponds to Illinois' research on continuances)

5 - Delays (session start delay, intercase delay, and intracase delay)

Obviously, the types of data collected in New York closely parallel the data collected in Illinois. The findings are also similar: inadequate information facilities; inaudibility of the judges, attorneys, and other participants; absence of provisions for non-English speaking defendants; infrequent denial of motions for adjournment. Consequently, the court watchers' recommendations echo those reported in Chapter II and will not be repeated here.

Court watchers' records concerning delays (which were not comparable to Illinois' records) revealed that a significant amount of time is lost in many courts between the scheduled time for court to begin and the actual time that the session begins. (Although inter- and intracase delays were also found to exist, the actual time lost was minimal.)

> In Manhattan Supreme Court, 92.4 percent of the sessions observed were delayed 15 minutes or more. The judge was unavailable 28.8 percent of the time, defense counsel 31 percent, and defendants were unavailable 18.2 percent of the time. Monitors

> observed that in some trial parts proceedings were consistently delayed until 10:30 a.m.

In its final report, the project notes that the Subcommittee on Calendar Practice and Preliminary Procedures of the Advisory Committee on Court Administration of the Appellate Division had recently issued proposed rules prescribing sanctions for lateness and nonappearance of attorneys in criminal cases. The project further recommended that "additional efforts should be made by the judiciary to insure that court business begins promptly."

The New York project's recommendations emphasized guidelines and standards for various aspects of court proceedings, such as the requesting and granting of adjournments and allowing public access to criminal proceedings. The project also suggested that the New York State Bar Association, in conjunction with interested citizen groups, develop a Statewide Accreditation Board for Courthouses to insure adequate facilities.

At the end of the project's pilot phase, about six months after the program began, an Interim Report was issued. Court watchers in the second phase were thus able to observe any changes taking place in the courts as a result of the findings and recommendations contained in that document. A number of significant positive responses were noted throughout the state, including:

- Cases being heard in open court much more consistently.
- Judges being more conscious of explaining the proceedings both to defendants and to the public.
- Longer sessions and extra sessions being held to deal with the backlog of cases.
- Court convening on time more often.
- Continually defective sound systems being repaired or replaced.
- A sound system being installed in a court.
- Administrative judges issuing a directive that presiding judges wear their judicial robes.

- Distracting conferences in court being eliminated or minimized.
- Calendars being posted for the public.
- Judges making further efforts to insist on proper decorum being maintained by all participants.

## 3.2 Monitoring the Family Courts

The next phase of court watching activity conducted by the Fund for Modern Courts involved observations of the Juvenile term of various Family Courts throughout the state. The first round of monitoring has now been completed in five areas: Nassau County, Westchester County, Erie County, Middletown County, and the boroughs of Queens and Brooklyn in New York City. A First Report has recently been issued and another five local projects are underway.

The demonstration phase of this project was funded for a six-month period starting July 1976 with a $36,601 grant from the New York State Division of Criminal Justice Services; an additional $3,733 was awarded by the New York Community Trust. Additional funds have been secured from these two sources to allow the Fund to sponsor new projects in other locations for another year.

During the month of November 1976 (the period of statistical analysis, 220 volunteers observed 3,319 cases in the four areas under study.* Thirty-eight percent of all the cases observed were Juvenile Delinquency and PINS (Persons in Need of Supervision) hearings. Of the remaining types of proceedings observed, half were Support and USDL (Uniform Support of Dependents Law) cases. Other types of proceedings observed were Child Abuse and Neglect, Paternity, Custody, etc.

---

* Data from the Middletown project are not included since that project had just begun operations at the time of the First Report.

The format for the Family Court Watching Project is nearly identical to that for court watching in the criminal courts. The fact that these were juvenile rather than adult proceedings had little effect on the collection of data or the recommendations made. Some projects recommended that Law Guardians (attorneys assigned to represent juveniles) and other court personnel be required to attend special training in juvenile justice; monitors in New York City noted the status of juvenile respondents at the beginning and end of each session. On the whole, however, the problems were similar to those in the adult courts and, consequently, similar suggestions were voiced.

### 3.2.1 Special Considerations

Although one would expect that serious problems of confidentiality and court decisions requiring private sessions in juvenile court would bar monitoring, court rules in New York State have recently been amended to begin to open juvenile sessions. Rule 2501-6.2 entitled Privacy of Proceedings in The Family Court states:

> (a) The following persons may be admitted to a Family Court proceeding in the discretion of the judge who is presiding in the courtroom:
>
> (1) A person who is present at the request of a party or other person having a direct interest in the proceedings;
>
> (2) A member of the bar;
>
> (3) Any person who is a representative of the news media;
>
> (4) Any person who is a representative of a charitable, legal, educational, medical, psychological, social, or other similar organization, or who is engaged in bona fide research or writing involving the work of the court.

Under this new rule, the presiding judge still exercises the discretion to exclude any person from the proceeding who is behaving disruptively or whose presence is objected to by one of the parties.

The opening of the juvenile courts in New York to court watchers is almost revolutionary and whether it is repeated in other states will be interesting to watch. It seems clear that if these courts are opened to public scrutiny, juvenile court watching projects will proliferate.

Another point in the New York rule is worthy of mention. This is the first rule brought to our attention which deals with the concept of "bona fide research or writing involving the work of the court". While the specific definition of "bona fide research and writing" is left to the discretion of the presiding judge, it appears, based upon the Family Court Monitoring Project, that volunteer court monitoring presently fits within that definition.

# CHAPTER IV: OTHER COURT WATCHING PROJECTS

There are, of course, numerous examples of court monitoring projects throughout the country. The type and level of court selected for monitoring is largely dependent on the objectives of the project and the part of the judicial system which monitors want to influence.

Most court watching projects choose to focus on the criminal courts. The reasons stated by the Illinois Court Watching Project regarding their selection of the criminal courts have been somewhat traditional, at least during the first several years of court watching in the 1960's and early 70's: "They are the place where most people meet the law for the first time. They are the place where most citizens receive lasting impressions about the quality of our criminal justice." The first section of this chapter describes several court watching projects in the criminal courts.

Recently, efforts have begun to monitor courts other than the lower criminal court. As the examples in the second section of this chapter demonstrate, however, interest in civil courts is still at an early stage of development and the amount of information available is limited. The discussion of this type of court monitoring, then, should be seen as an indication of a potentially new direction in the future.

## 4.1 Criminal Court Projects

### 4.1.1 Arizona

A court monitoring project was conducted in the Municipal Court of Flagstaff, Arizona to examine the manner in which the civil rights and liberties of defendants were being observed. The study was designed in response to the findings of observers who attended Flagstaff Municipal Court proceedings during the weekend of the 1974 Flagstaff All-Indian Pow Wow. This observation team concluded that the Arizona Rules of Procedure were being routinely ignored and violated in ways which represented serious infringements of defendants' rights. A more extensive study was planned to determine whether substantial violations of procedure and other rights were common in the Flagstaff Municipal Court and not unique to Pow Wow weekend.

From June 23, 1975 to July 31, 1975, a first-year law student witnessed the arraignment of over 450 defendants and the trial of 25 defendants. Initially the observer attempted to monitor court proceedings anonymously. After two weeks of observing the court, having gained enough familiarity with the court's proceedings to discern changes in procedure should they occur, the observer informed the presiding judge of the purpose of the observation. No attempts were made to conceal information from the observer or to make observation difficult and the attitude of court personnel was cooperative.

The final report entitled "Flagstaff Municipal Court Proceedings and the Rights of Defendants" was sponsored by the Arizona Civil Liberties Foundation in cooperation with the State Board of Directors of the Arizona Civil Liberties Union and the Northern Chapter of the Arizona Civil Liberties Union. The report has three main parts: a discussion of the judicial process as faced by defendants; an examination of the three basic concerns observed to be adversely affecting the quality of justice in the court; and recommendations to the City of Flagstaff and its Municipal Court. The three issues that the project focused on were (1) rights violations that stemmed from a language barrier between judge and defendant, (2) difficulties faced by a defendant in obtaining legal counsel, and (3) the inability of non-lawyer judges to understand many of the subtle guarantees built into criminal procedure.

Unlike the majority of court watching projects, there were no attempts made to enlist the help of citizen volunteers or to develop a base of public support for the project and its report. The final report does not discuss plans for follow-up observations to see if the project's recommendations have been implemented. It is thus unclear whether the court monitoring will have any impact on the conduct of the Flagstaff Municipal Court other than a documentation of its procedural inadequacies.

### 4.1.2 California

Over the past seven years, the Citizens for Law and Order (CLO) have been working "against the deterioration of law and order" in Alameda County through a combination of court monitoring, newsletters and speaking engagements. The general objective has been "to educate and inform the silent majority of business, professional men, women and homeowners who want to become involved through lawful means in active support of law and order in our nation, our state and our local community."* The specific aims of the CLO monitoring efforts and reports include (1) to oppose "soft-headed" judges when they come up for re-election, (2) to initiate recall of judges unduly lenient toward criminals or militants, and (3) to "scare" judges into stricter sentencing and handling of criminals.

The court monitoring effort has been conducted by CLO volunteers who watch judges in the criminal department of Superior Court to determine which judges are dealing softly with criminals. The CLO News, published monthly, contains a "Weekly Scorecard of the Courts" listing the sentences imposed for broad classifications of offenses. Another regular feature of the newsletter commends judges when they are strict. The impact of the monitoring on case disposition has not been documented, but even critics of CLO concede that the group has influenced a number of judges. The director of the Alameda County Bar Association has stated,

---

* CLO News, No. 72, February 1977, p. 1.

> ...with judges who have guts and realize what their function is, CLO has no impact. But with other judges, it has had a definite effect on their decisions on how to punish. These judges are very concerned about how they'll be written up in CLO's little newsletter, where in the past these judges might have sentenced differently, they are now more concerned about criticism.*

CLO's method of reporting a judge's sentencing practices through a scorecard points out some of the limitations of evaluating complex procedures such as sentencing, particularly when done by advocacy-oriented monitors. For example, the CLO scorecard fails to distinguish between the types of crimes within each of its nine crime categories. Offenses ranging from minor family squabbles to hatchet attacks are included under "assaults". In addition, CLO sometimes ignores or does not take time to investigate background facts or extenuating circumstances that lead to the sentence it criticizes.** As a result, the project's attempts to increase citizen involvement in the justice system may actually result in misleading the public and further confusing the issues that affect the courts.

### 4.1.3 Ohio

In Columbus, Ohio a year-long "citizens' study" of the Franklin County Municipal Court was conducted in 1975. The purpose of the study was to gather information, through courtroom observations, on conditions, procedures, behavior of defendants and court personnel, and disposition of cases in order to measure the quality of justice in Criminal Arraignment Court. The project's objective was to provide the public with information about its courts. If the information indicated a need for improvements, the study could provide officials with a well-documented analysis as a basis for making necessary changes.

---

* Oakland "Judge-Watchers Grow in Stature," Los Angeles Times, December 30, 1973.

** Stecich, p. 473.

Between January and July, almost 1,400 criminal cases were observed in the criminal arraignment courtrooms by 24 court watchers. Data were gathered on the four most frequent misdemeanor and four most frequent felony offenses; these eight charges accounted for 66 percent of the court's total criminal caseload in 1974.* Unlike many citizen-based court monitoring projects, the Franklin County Court Study had sufficient funds to hire a part-time research director. As a result, the data collection efforts were well-orchestrated, and a comprehensive analysis of the information was possible. The administrative judge of the county was informed of the project as were the judges and personnel of the monitored courts.

The final report of the project addressed the problems of extreme variation among judges in conducting proceedings, lack of effective courtroom management, the size of caseloads and preferential treatment of some defendants. Fundamental changes were recommended to improve the appearance and order of court proceedings and to assist both defendants and the general public through better communication of information. Due to the quality of the information collected by the monitors, the project was able to substantiate its report with concrete evidence and reliable statistics.

Achievements of the project in its first year include more consistent and thorough explanations of rights to the defendant by printing this information on the reverse side of the complaint form; the establishment of an information booth outside of the courtrooms; the installation of private conference rooms; and the removal of a police guard felt to be disruptive and openly hostile to defendants. The court watching project has also expanded its program during 1977 to encourage more community involvement in the courts and to continue the monitoring effort.

---

* "A Citizens' Study of the Franklin County Municipal Court," p.4.

### 4.1.4 Pennsylvannia

The Friends Suburban Project in Chester, Pennsylvania was conducted by "middle-class" people who had little first-hand experience with the police and courts and wanted to become more aware of the problems of the poor in the criminal justice system. The Chester Magistrate's Court had a poor reputation among the city's black community and the project chose to observe the court with the intention of reforming what the project believed were "corrupt and inhumane practices".*

For six months beginning in January of 1970, over two hundred volunteers attended sessions of the Magistrate's Court. The project notified Chester court officials at the onset of its intention to monitor the court. After an initial "get tough" attitude toward the court watchers by officials, including three arrests,** court monitors were granted permission to take notes, to talk to those present before and after the hearings, and to hand out leaflets explaining their reasons for being in the courtroom. The leaflets listed the rights of the accused and sources of assistance to them.

As a result of the monitoring, the project found that Blacks and Puerto Rican defendants were suffering harsher treatment than whites, that most of them did not have attorneys, that they were not aware of their legal rights, and that the atmosphere of the courtroom and the attitude of court personnel were demeaning. The project publicized its findings and met with city officials, including the chief judge of the court and the city solicitor, to discuss the findings and press for certain improvements. As a result, Public Defenders are now available for all cases involving indictable offenses, arraignments are open to the public and court records are accessible. A number of less tangible achievements have also been claimed, including more humane and flexible judges and increased community confidence in the courts.

---

* A Court Action Handbook, p. 1.

** One monitor was arrested when she sat on the courtroom floor to protest a lack of seating in the courtroom; the other monitors were arrested for disrupting the court while in session.

Monitoring of the Magistrate's Court has continued intermittently in the hope that the occasional presence of middle-class persons would improve the attitude of court personnel. The project has published and distributed a Court Action Handbook that details how to set up a court monitoring program. The handbook has been widely used and as of August 1976, it is in its eleventh printing.

### 4.1.5 Washington

Sponsored by the Rainier Community Action Center in Seattle, this court monitoring program was established as part of a larger community effort to increase citizen involvement in the criminal justice system. It was the opinion of the Action Center that certain judges were in part responsible for the community's high crime rate because they were too lenient in sentencing criminals. The objectives of the court monitoring project were to determine which judges were "too lenient," and inform the public of their poor records, so as to diminish their chances for re-election. The court monitoring effort was divided between two committees: the Courtwatch Committee, organized for the actual monitoring and data gathering, and the Courtwatch Action Committee, organized to take political action after analyzing the results of the Courtwatch Committee's research.

With approximately forty volunteers, the Courtwatch Committee studied 500 Superior Court cases for a two-year period ending in May, 1976. These cases were evaluated on three factors: how well the sentence fit the crime; how well the sentence fit the criminal's past record; and, if probation was granted, were there adequate safeguards for the public. The cases were then rated on a scale from one to ten regarding the perceived adequacy of the sentence imposed. The judges hearing these cases were then rated on the basis of their sentencing patterns. The survey and rating of Superior Court judges were given to the Action Committee, who in turn proceeded to publish campaign literature and grant press interviews to convey the findings of the research group.

Ratings of 23 of 29 King County Superior Court judges were released, dividing the judges into "unacceptable," "acceptable," and "recommended" categories. The ratings were intended to influence voters in the 1976 elections against judges found "unacceptable" by the Courtwatch Action Committee. Leaflets describing the rating system and listing the names of the judges in the three categories were distributed throughout the Seattle area and at voting polls on election day. Of the eight judges that were listed as "unacceptable," two were defeated.

Whether this court watching project has a broader impact on the local judiciary is difficult to determine. As Chapter 5 will indicate, the questions addressed are extremely difficult to resolve and best approached with caution by most court monitoring efforts.

## 4.2 Civil Court Projects

There has been only a slight movement over the years to monitor courts handling civil cases exclusively. Between October 1972 and January 1973, the Junior League of Brooklyn, an educational and charitable organization, observed more than 1,000 cases in Brooklyn landlord-tenant court. The observers found the court to be decrepit, badly overcrowded and degrading. The findings were subsequently published in the New York Times which drew the attention of the administrative judge. He agreed that physical conditions were atrocious and asked the judges to respond to allegations of improper conduct and attitude.

The Task Force for Justice of the Presbytery of New York City conducted a court observation project in New York landlord-tenant court for three months in 1972-73. Its goals were to "verify and document whether there exist judicial practices which prevent the successful operation of the court; to educate individuals in each community about the judicial system and to maintain a public presence in the courtroom." Unfortunately, the statistical report that was prepared stated no conclusions and contained no recommendations.

The Family Court Watching Project discussed in Chapter 3 is a more recent example of efforts in the civil courts. That project should serve as a model to others, both in the degree of rigor which characterizes the research, and in the unprecedented opening of juvenile courts to limited citizen observation.

More observations of civil courtrooms can be expected in the future, but one drawback may very well be the lack of court monitoring manuals and forms similar to those available for courtwatching in criminal courts.

# CHAPTER V: PROGRAM GUIDELINES

This chapter seeks to synthesize the operational, organizational, and evaluative considerations detailed in the previous chapters. The purpose for this synthesis is to provide insights from the experiences of ongoing programs to aid in the replication of court monitoring programs elsewhere.

After a discussion of the various types of program goals and objectives, specific concerns of program management and administration, as well as assessment of achievement, are addressed.

## 5.1 Establishing Goals and Objectives

Drafting goals and objectives for a court monitoring effort is fundamental if a project is to maintain a sense of direction and purpose. Goals are also needed if a project is to assess its achievements and evaluate the impact it has had on the judicial system. The objectives of a court monitoring effort, then, become central to its daily activities as well as its long-run impact. Several criteria can be used to evaluate the objectives of a court monitoring project, including the degree of objectivity and specificity, the intended level of impact and whether the objectives are realistically within a project's capabilities.

### 5.1.1 Clearly Defined Goals

Certain projects, particularly those interested in collecting statistical data, have definitive objectives by their very nature.

These court monitoring projects seek specific information about the court; the monitor training, data forms and data analysis reflect that singleness of purpose. At the other extreme, some projects have only vaguely defined goals and often lack the direction needed for achieving concrete results. Projects which aim to "keep the judges on their toes" or "evaluate the judicial process" often flounder in vague generalities, offer few specific recommendations, and usually fail to have any long-range impact.

In some cases, the project goals are revised after a period of court watching to include more concretely defined objectives. The initial goal of the Task Force on Courts in Rochester, New York, for example, was to provide a presence in the courtroom and evaluate the judicial process. After a period of court watching, it became apparent that if the project was to have any impact, more clearly defined objectives had to be adopted. The project directors chose to conduct statistical research on the rates of, and reasons for, adjournment and delay. This redefinition of the project's objectives enabled monitors to more successfully gather substantive data.

### 5.1.2 Objective vs. Subjective Goals

When evaluating the objectives of a monitoring project, the potential biases resulting from a project's political ideology or other preconceived beliefs should be taken into consideration. Both "defendant protector" projects and "law and order" projects have goals which obviously reflect their particular perspective (e.g., to promote equitable treatment of minority offenders or to pressure judges to hand out harsher sentences). Similarly, when projects conduct monitoring to substantiate a predetermined position, the goals of the group are subsequently biased. For example, the League of Women Voters in Westchester, New York, used court watchers to gather data which would point to the necessity of a unified court system.*

---

* Stecich, p. 477.

While there is nothing inherently wrong with using court watching to prove a point, the impact of such a project's efforts may diminish in proportion to the degree that the general public and the judiciary view the project's report as the unsubstantiated opinion of a special interest group. A lack of objectivity in constructing the project's goals thus can work in the long run to the detriment of the project.

### 5.1.3 Project Capabilities

While concrete and objectively defined goals are fundamental to a project's success, it is equally important that objectives remain within the capabilities of the project. As noted throughout this monograph, court watching projects suffer from a number of limitations ranging from the background of monitors to restrictive funding and access to court hearings. Funding expiration dates, the abilities and dedication of both monitors and staff, and possible resistance from the judiciary or legal profession are additional factors to be considered when developing project objectives. Without a realistic assessment of its capabilities, a court monitoring effort might establish a set of goals far beyond its actual capabilities as a volunteer-based effort.

## 5.2 Types of Program Goals

Project goals may be divided into three broad types of basic objectives: facility and personnel evaluations; assessments of court organization and procedures; and examinations of inequities in the administration of justice. Each of these objectives requires a specific research design, certain types of data collection and coding skills, and a varying number of volunteer man-hours and capabilities. The latter category, in fact, requires an extremely well-defined, rigorous research design that may prove overly ambitious for most court monitoring projects. Each of the three classes of objectives is discussed below, with special emphasis on the latter category.

### 5.2.1 Assessing Court Personnel and Facilities

A number of court monitoring projects focus on the quality of the environment within the courthouse, ranging from the physical condition of the facility to the presence of information booths and cooperative court personnel. Because many of the factors affecting the courtroom environment are directly observable (e.g., the sound system works or it doesn't), projects of this kind require very little technical assistance. Only basic coding forms are needed, monitor training can be done quickly, and there is no need for elaborate (and expensive) statistical analysis.

The implementation of recommendations concerning specific features of the court environment--the need for a waiting room, for example--are often within the capacities of a court administrator or judge. Furthermore, by limiting the court watching to a study of observable factors, the project's impact can be easily assessed by returning to the court to verify the adoption of project recommendations. While this type of project objective is relatively easy to implement, and is accessible to almost all types of monitoring projects, it can have an important impact on the quality of justice: Courteous court officers, clean and well-lit waiting rooms, and a supportive environment, free from the intimidations and confusion that often typify people's court experience, all contribute to the improvement of the judicial system.

### 5.2.2 Assessing Court Organization and Procedures

Court monitoring projects may also select objectives which pertain to specific elements of the trial procedure, often in the area of due process. Issues such as delays, continuances, the availability of counsel, litigant preparation and the defendant's understanding of his rights are often selected as indicators of the quality of justice being dispensed in the monitored court. Unlike facility assessments, where the only requirement for successful monitoring is an ability to be observant, evaluating procedural issues requires some technical training. For example, unless a monitor knows what procedural safeguards a defendant is entitled to, he or she obviously cannot begin to accurately assess a court's performance in this area. Also, more elaborate data collection devices will be required to gather information on specific procedural questions, which in turn has implications for monitor training needs as well as funding support for the data analysis.

### 5.2.3 Assessing Inequities in the Administration of Justice

The third possible area of court monitoring activity is the most difficult for projects to achieve with limited staff and financial resources. The following discussion highlights the statistical difficulties inherent in attempts to investigate perceived inequalities in a court's release disposition and sentencing practices.

Many of the most interesting court behaviors cannot be inferred from a single observation. One of the great strengths of organized court watching projects is their ability to accumulate large numbers of systematically related observations from which the patterns underlying the court's actions may be inferred. The technical requirements for gathering the data necessary to make reliable inferences of inequality are, however, difficult to meet. The monitors must have a sophisticated understanding of the law and issues involved; they must be sensitive to the nuances in various fact situations; they must be aware of the legitimate discretion allowed to judges; and their sample of observations must be large enough and unbiased enough to support their conclusions. The difficulty of meeting these requirements may explain why there have been no documented court watching studies concerning inequities of judicial treatment.

There have been, however, instances of systematic statistical analysis of court behavior for the purpose of alleging and changing inequities in the administration of justice. While the following studies did not result from actual court watching activities, they illustrate some of the concerns which would also face court watchers who attempt to analyze, through observation of court behavior, the degree of equality in the administration of justice.

One of the earliest examples of the use of systematic statistical analyses of court behavior came in a case involving the composition of juries.

In 1934 a black man who had been convicted of a felony by a white jury appealed to the Supreme Court, claiming that he had been denied due process by the systematic exclusion of blacks from jury service (Norris v. Alabama, 294 U.S. 587, 1935). While he was not able to produce witnesses who confessed to discriminatory action, or any written evidence of a policy to exclude blacks, he did claim that jury composition statistics showed the result of such policies. Specifically, in the county where the indictment was brought, no one was able to remember any occasion when a black had served on any jury, although 7.5% of the population was black. Similarly, no blacks in living memory had been on juries in the county where the trial was held, despite the fact that 18% of the population there was black. On the basis of this evidence, the court was able to infer a discriminatory trial, and granted relief.*

This logic has been extended from nonrepresentation to underrepresentation, with judges generally finding evidence of discrimination when it became sufficiently improbable that the jury composition could have been produced by a race-blind draw from the legally eligible population. Conspicuous exceptions persist, however. In one case,** the percentage of blacks on grand juries had not exceeded 15% for over 15 years, even though 26% of the population was black. No precise statistical calculations were used in the case, and the court said it was not convinced of systematic discrimination. However, the actual probability of such underrepresentation given the hypothesis of fair selection is about one in a billion trillion (more precisely, $4.63 \times 10^{-21}$).

---

* This case and several similar cases are described in J.G. Haworth and C.T. Haworth, "Statistical Inferences in Civil Rights Decisions," American Statistical Association, Proceedings of the Social Statistics Section, 1976.

** Finklestein, "The Application of Statistical Decision Theory to the Jury Discrimination Cases," 80 Harvard Law Review 338 (1966).

Data from court behavior have also been applied to the relationship between procedure and final results. A number of studies conducted in the early 1960's suggested that defendants who were unable to post bond (and were thus detained prior to trial) were much more likely to be convicted and sentenced to prison than those who were at liberty during at least part of the pretrial period. One defendant who was detained, convicted, and sentenced to prison by New York City courts brought a class action on behalf of indigent detained defendants against the judges who had established the release conditions.*

The evidence for the case was drawn from statistical observations on a sample of 857 adult males charged with a crime in Manhattan whose cases had involved some bail or release decision and who had been represented by members of the Legal Aid Society of the City of New York. The plaintiff's attorneys showed that while 17% of the defendants who were free before trial went to prison, 62% of those who were held in jail received prison sentences. They went on to demonstrate that comparable disparities persisted within types of crime, that finding evidence on the accused did not seem to reduce the disparity, that prior records were only marginally related to severity discrepancies, and so on. The plaintiff claimed that these results showed a consistent denial of equal protection to those who were too poor to meet the bail amounts set by the court. He further claimed that bail which a defendant could not afford to pay, and which resulted in a weakened defense, was excessive.

Attorneys for the judges attacked the data and analysis on methodological grounds, attempting to show that the same factors which legitimately influenced bail setting (strength of evidence, possible motives for flight, prior record) were the cause of conviction disparities, and not the bail decision itself. Given these ambiguities, the court sided with the judges in ruling that there was no conclusive demonstration of harm resulting from the bail decision, and that in this particular case they did not consider the $500 bail amount excessive, since it was the one customarily used for such offenses.

---

* E.W. Single, "The Unconstitutional Administration of Bail: Bellamy v. the Judges of New York City," 8 Criminal Law Bulletin 459 (1972).

**These examples illustrate ways in which courts have used analyses of the results of their actions in determining whether the policies which produced those results could be considered consistent with the requirements of due process and equal protection. Four points may be drawn from these cases in formulating methods whereby court watchers may turn the results of their observations to greatest advantage.**

*Successful cases have addressed a single, well-defined issue. The evidence which was presented described essentially one outcome and attempted to demonstrate only a single causal relationship involving that outcome (e.g. race → jury exclusion, detention → conviction). The inference which was to be drawn was based on a single clear discrepancy between actual results and those which would have been expected had the putatively illegitimate policy not been in effect.*

*The data have been systematically gathered. A recurring theme in higher court decisions is a reaffirmation of the latitude of discretion accorded to the original judge and the reluctance of higher courts to interfere with individual exercises of that discretion. Only when the purported wrong has emerged as systematic discrimination have remedies based on statistical analysis been considered.*

*Thus, it has been necessary to argue that the data presented were representative of the kind of case which was being deliberated. This meant showing that the period over which the data were gathered reflected the policy in question: that the cases chosen were either a 100% census of recent relevant experience, a random sample from the applicable population, or at least drawn in such a way as to preclude possible bias from the means of selection. It seemed generally necessary to show that the number of observations used was large enough to indicate a pervasive pattern of behavior rather than an individual aberration.*

*The materials have been carefully documented. The findings in these cases have been contested--often vigorously, sometimes successfully. In general it may be anticipated that the degree of opposition will rise to match the importance of the case. Such a response is understandable, and it is usually possible to anticipate and forestall the lines such criticism would take. While criticisms* *may vary with the substance of the problem, the following are likely to be recurring themes:*

- *selection of cases for observation;*
- *completeness and integrity of data collection;*
- *observer competence and training; and*
- *possible loss of information or introduction of error between observation and analysis.*

*A project which can produce written procedural records documenting the precautions used to forestall distortion in these areas is in a strong position to respond to such questions.*

*The analysis is thorough. The most effective approaches appear to be those which combine detailed observation of individual cases with statistical records showing that these cases are examples of a systematic policy which has been in existence for a significant period of time. In any individual case it may be possible to identify complicating factors justifying a broad range of judicial discretion. When such cases are compounded over a long period of time, however, it becomes increasingly plausible that such incidental factors always occur in the same way. Thus, the general approach is to gather data not only on the outcomes of cases, but on the incidental factors surrounding the cases, either to show that these incidental factors are equally distributed among all kinds of cases, or to demonstrate that decisions are not affected by them.*

## 5.3 Program Management and Administration

Once a court watching project has determined an appropriate set of goals and objectives, this decision will influence the remainder of the project's management and administrative decisions. Whether simple or complex, goals and objectives must be kept in mind when recruiting volunteers, developing a training program, determining staff requirements, and charting out day-to-day activities. Recommendations and suggestions for each such element of a court monitoring project are presented below, noting where appropriate any special requirements for projects with each of the three types of objectives described above.

### 5.3.1 Advisory Committee

The most effective court watching projects have appeared to be those responsible to a local governing board or Advisory Committee. This body can not only make policy from time to time, but can also be a valuable resource in recruiting and training monitors; communicating with the bench, bar and the media; and assisting in fundraising. Furthermore, if the goals of the project are to seek changes in the judicial process, a final report issued under the signature of prominent members of the local community will have greater force and effect than one issued by a group of volunteer lay citizens.

In selecting members of such a committee, it is important to look for sensitive persons interested in and knowledgeable about the court system. Among the types of individuals who have proven to be particularly helpful are the local chairperson of the League of Women Voters, recognized civic leaders, a member of the local bar association, a retired probation officer and a local newspaperman. Some care should be exercised in choosing individuals too closely associated with the local court such as an assistant district attorney, the local public defender or a judge.

There should be a clear designation of authority for policy-making decisions between the Project Coordinator and the Advisory Committee. Much of the day-to-day responsibility must be delegated to staff for the program to be effective.

Most programs have found the existence of an Advisory Committee to be extremely beneficial to the project, both by bringing into the project important individuals who represent key links to the community and by providing a more central role for motivated and knowledgeable volunteers.

### 5.3.2 Funding Requirements and Staff

Ideally, every court monitoring project should have a full-time staff. There are a variety of functions that need to be accomplished and total reliance upon unpaid volunteers may at times be insufficient. However, it is recognized that factors such as the size of the monitoring team, the scale of the project's objectives, and most importantly the lack of necessary funds may make paid staff impossible. What is important is that the functions needed to conduct a successful court monitoring effort be clearly defined and assigned to responsible individuals.

Among the functions that should be considered for paid or volunteer staff are those identified by the Fund for Modern Courts in New York:

1. Central Coordinator. This is the one person who would serve as a central clearinghouse of information about the organization, both to its members and to those outside of the project. He or she will oversee the efforts of the other coordinators, arrange for all meetings of the Advisory Committee and of the monitors as a group, and be the primary spokesperson for the project.
2. Public Relations Coordinator. This person would (alone or with a committee) develop and maintain personal contacts with the local media representatives, write press releases, and advise the group how best to organize events in order to utilize the media in reaching the public.
3. Record-Keeping. If possible, this might be done by the Central Coordinator. If that is impossible, however, then one person should be designated to coordinate all of the functions associated with keeping volunteer information and monitoring data.
4. Recruiting (and Speakers Bureau). The functions of reaching out to the community to explain the project, recruiting volunteers, and interviewing and accepting potential monitors, might be coordinated by one person. This individual should also train a number of others to be prepared to speak to groups both during and after the course of the project.
5. Research Coordinator. It would be helpful to have one person take charge of the research effort. He or she would assign appropriate tasks to other individuals, be the repository for all of the data and information collected, and consolidate and

distribute essential information to every member of the group.

This list represents the five functional areas necessary for a statewide, coordinated monitoring effort which involved over 500 monitors. Smaller court watching projects, of course, can function well without this hierarchy, although the areas of responsibility listed here still need to be addressed by the project's steering committee or chairperson.

In addition to these personnel costs there are a number of other items of expense to be considered including clerical; data processing; printing of questionnaires, court monitor forms and final reports; office space; telephone; and the cost of preparing materials for the training program.

Fund raising, while essential, can often be frustrating and time-consuming. The most obvious source of funds may well be state block grant funds from LEAA through a contract with the State Planning Agency. A number of court watching projects have been funded through this source. Other sources of funding have included local private foundations, local and state bar associations, local Leagues of Women Voters and private donations.

### 5.3.3 Recruitment

The strategy used to recruit volunteers to work as court monitors depends in part on the objectives of the particular project. If the project intends to gather data in order to substantiate preconceived ideas or to advance specific reforms, the group will want to recruit individuals sympathetic to the established objectives, thus maintaining the homogeneity of the organization. The Friends Suburban Project, a Quaker group in Pennsylvania, for example, has been a court watching project which reflects the organization's political attitudes and belief in passive resistance. The project attracts liberal volunteers who support the views and tactics of the project, including the use of leafletting and sit-down protests. The belief that the magistrate's court is "corrupt and inhuman" reflects the basic attitude of the project as well as its volunteers.

However, most court monitoring projects try to maintain an unbiased approach to the issues and want to produce a study which reflects the "average citizen's" view of the judicial system. With an objective as direct as conducting a study done by citizens and for citizens, recruitment can be directed at any individual who is willing to devote the necessary time and participate in the training process. Civic groups, religious and senior citizen organizations, and other community groups provide an ideal forum in which to present the ideas of the project and interest members in becoming court monitors. News releases in the local newspapers and other weekly publications reach a large audience and can attract volunteers. In many cases, in fact, citizens joined a court monitoring project after reading of its formation in newspapers. Local colleges and universities often will offer academic credit for court monitoring and thus provide an excellent source of student volunteers.

Generally, projects have reported with pleasant surprise the ease with which volunteers were found. In fact, some projects found themselves in the unique position of having to expand their operation or turn away excess volunteers. However, while there may be an abundance of volunteers, it is not necessarily true that they are a representative sample of the local citizenry. Because court watching is a 9-to-5 activity, the volunteer population is largely restricted to individuals free during the work week--housewives, students and retirees. Indeed, 80 percent of the Illinois Court Watching group, sponsored by the League of Women Voters, are women. Many projects have thus unintentionally recruited volunteers from a limited portion of the population.

Furthermore, volunteers receive no reimbursement for expenses, which limits the participation of those unable to afford the carfare, lunches, etc., that are incidental to the task. This lack of funding may explain, at least in part, the minimal participation of minority group members in court watching projects. To increase minority representation, special efforts should be made to contact local civic organizations such as the NAACP, as they may have access to funds for reimbursing their volunteers.

An alternative method of recruiting which has been implemented by at least one monitoring project is to enlist a predetermined, representative sample of the community instead of a random cross-section. In view of the limitations inherent in attempting to get a representative cross-section, recruitment under this second strategy is restricted to a population which reflects the average income, educational level and race of members of the community. This profile of an average citizen of the community can be based on available statistical and demographic records and then modified to include individuals needed to provide a balanced perspective. The court watching project in Columbus, Ohio, for example, recruited monitors based on a profile of individuals who had a $12,000 income and a high school education. In addition, they wanted the monitors to be over 21 years of age and from different sections of Columbus and its suburbs; 15 or 20 percent of the monitors were to be black.

Using this alternate method of selecting volunteers has an obvious impact on the recruitment methods used by the project. Because selection is based on a volunteer profile, recruitment cannot be done through general publicity without having to turn away large numbers of people who volunteer. Instead, recruitment must be done by the project director or staff through direct contact with individuals who fit the profile. This process can be made more efficient by selecting organizations in areas fitting the profile in general and asking a representative to select persons who might be interested and who fit the profile.

A final step in the recruitment process taken by some projects is a screening of the potential monitors with a personal interview. The interview allows for a fuller explanation of the goals and methods of the project as well as the functions and responsibilities of the monitors. A discussion of the extent of the time commitment involved also helps to minimize the problem of dropouts and sporadic court attendance that has adversely affected some projects. One project in Connecticut, for example, was compelled to lower the reliability factor in the statistics gathered by the project as a result of spotty attendance. (Most projects that have been successful have required an individual monitor to record data at least once every two weeks for a six-month period.)

In some instances, an interview may reveal a personal bias that will prevent the volunteer from completing the monitoring in a thorough and objective manner. At that point, the person may be given some alternative volunteer assignment (telephoning, clerical work, data compilation, etc.) or if this is not acceptable, he can be excluded from the project. The interview also has the more positive benefit of revealing special talents or interests on the part of volunteers, e.g., newspaper experience that might be useful in a public relations effort.

### 5.3.4 Training

The amount and type of training required for court watchers depends largely upon the goals of the project, the quality of the data sought and the ultimate results the project is looking for. A project concerned primarily with such things as the physical environment of the courtroom and citizen access to the courts will need a far different training program than one which attempts to document the degree to which indigent defendants' due process rights are being observed in a given courtroom.

Whatever the type of program, however, it is crucial that all monitors participate in the full training program and that they are available to observe the court on a regular basis. It is also extremely important that the training provide sufficient time for instruction in the proper use of data forms.

It may be argued that training every monitor with pre-selected information in a uniform way destroys a uniqueness of outlook which is fundamental to a citizen-based project. However, all projects have found that training is an essential element of successful court watching. Any loss of freshness in attitude on the part of volunteers will be more than offset by the greater depth of understanding and insight that each one will bring to his observations.

Most court watching volunteers have had minimal contact with the judicial process in court, yet the more they understand about the judicial process and the roles of the cast of characters they will see in the courtroom, the greater the likelihood that they will record information accurately. Projects have also found that retirees, housewives and students for the most part have had little training or experience in research methodology or data collection. Therefore, specific skills relating to data collection and analysis should be built into the training course, including a background in key research concepts, a demonstration of how the collected information will be used, and an explanation of the data form item by item.

In addition, the training provides an opportunity for the project administrator or supervisor to interact with the volunteers, identify those who should not have been selected as monitors and find a more appropriate position for them. Volunteers for the most part are in awe, intimidated and/or confused by their initial courtroom experiences. Many courtrooms are characterized by noise, confusion, delays, continuances, summary handling of a large docket and in many cases, indifference to the public-at-large, whether they be defendants, witnesses, or court watchers. Some volunteers thus may find it difficult to "sort the wheat from the chaff." It is perhaps in this area where training is most important.

Thus, the structure of the training program will depend upon the population of volunteers who have been recruited and the goals of the project.

One project in Ohio that has an emphasis on citizen awareness as its main goal has produced a training program consisting of four two-hour sessions. At the first session, the co-chairman discusses the purposes of the project, with a study of background materials included in a "kit." The volunteers are then taken on a tour of the courthouse. The next two court visits are conducted on a "do it yourself" basis. In the final session, all volunteers re-group to discuss their experiences and to ask further questions. Instructions are also given on filling out forms. The volunteers are then given their court assignments.

A far more detailed training program has been designed by The People First in Boston, where the central goal of the project is to monitor the manner in which due process safeguards are available to defendants in the lower criminal courts.

This latter program begins with three two-hour sessions devoted to an overview of the criminal justice system in that state, a review of criminal practice and procedure, and a detailed description of the role of each of the actors in the criminal justice system to be found in the courtroom under observation.

Following these three sessions, the program director accompanies the monitors to the local courthouse for a general orientation session. The main purpose of this session is to familiarize volunteers with the personnel, workings, cast of characters and operations of the local court.

The next session involves a two-hour practice session in court monitoring. The monitors are requested to record as much as they can about each case. Immediately following this session, the coordinator participates in an informal session in which monitors discuss what they have observed. This process is then repeated for a second time. Following the third practice run, the coordinator begins to participate in the discussions of what, in fact, took place and provides a series of helpful keys to the process. Two additional sessions follow this format.

On the next court date, the coordinator accompanies the monitors into the courtroom and the training becomes somewhat more refined through a series of questions and answers conducted quietly in the courtroom. Two additional sessions of this type are then held.

It is only in the fourteenth session that the data forms are introduced into the training program, and described at length. Two periods of court observation are allotted to test their use, followed by a question-and-answer session.

The last two sessions of the training program are devoted to verification of information. Monitors frequently face the problem of not being able to hear much of what is going on in the courtroom. This is aggravated by frequent bench conferences. In these two final sessions, monitors are instructed how to verify information that was not gathered during the session by seeking additional information from the judge, prosecuting attorney, probation officer or sessions clerk. In addition, the monitors are instructed how to obtain information on cases from the clerk's office.

It is obvious that this program has an ambitious format and requires a large block of time from volunteers. All of this is spelled out clearly in the initial orientation session.

Most of the court watching training programs fall somewhere between these two examples. In each there appear to be several key elements:

- Orientation and Class Sessions. To be effective the classroom sessions must include a number of important subject areas, ranging from the structure of the local criminal justice system to the specific types of problems that court watchers can anticipate during their time as monitors. Ideally, one training session should be devoted to an overview of the basic operation and jurisdiction of the court, including the relevant criminal or civil laws and procedures in force.

- Tours of the Courthouse. The tour of the local courthouse should be conducted by a person not only familiar with the process, but who can introduce monitors to the key personnel in the court.

- A Number of Practice Court Watching Sessions. The practice monitoring should have some structure. Court watchers should not be told to simply locate a court and start observing. Courts should be preselected and a member of the project staff should accompany the monitors on the practice runs. This will permit a worthwhile debriefing and make the practice sessions far more meaningful.

- Instruction in Data Collection. Assuming that the monitoring project intends to gather information about some aspect of court operations, the last phase of training should prepare monitors in data collection techniques. Perhaps the single most important concept to emphasize is the objective recording of what is seen in the exact manner specified by the data collection forms. Any deviation in the manner of recording will make statistical proof of program objectives harder to achieve and will weaken the credibility of the project's findings. A discussion of key research concepts and standards for doing scientific research can contribute to impartial monitoring and strengthen the monitors' sense of professionalism. Having presented the fundamentals of data collection, the data forms should be explained item by item. If time permits, court watchers should use samples of the form to practice in court during the week before the next training session, thus

> clarifying any questions or problems before the actual monitoring begins. Most programs have found that the first several recordings of most monitors have to be discarded because the forms are incomplete and/or inaccurate. A careful check of the volunteers' recordings over the first several observation sessions will in most cases substantially improve the quality of the data collection effort.

Once the structure of the training program has been determined, it remains to be decided the type of personnel who should conduct the training program. Many projects have successfully enlisted the aid of defense and prosecuting attorneys for presenting an overview of the judicial system and explaining courtroom jargon. Attorneys are an asset to the training program both because of their legal expertise and because they can acquaint the observers with varying perspectives on the court. Occasionally, court personnel have also been recruited to assist in familiarizing monitors with courtroom procedures through mock trials and explanations of their responsibility. Several court monitoring projects have even persuaded courtroom personnel, particularly bailiffs and clerks, to lead tours of the court buildings and facilities. These tours help familiarize monitors with the location of courtrooms and other key areas and, in addition, the issues discussed during the classroom training become less abstract.

Recruiting personnel for monitor training in data collection techniques can present somewhat more of a problem. Unless the project has a professional research director--which usually requires that the project be well-funded--it is often difficult to find qualified persons willing to volunteer the necessary time. The lack of volunteers in this area probably has less to do with the willingness of the individual statistician or researcher than with the capacity of a project to initially locate qualified individuals in their community. When court monitoring projects have only limited data-oriented objectives, the lack of professional research assistance can be compensated for somewhat by careful monitor training by the project director and those responsible for the data collection. However, when a project's objectives include a major data collection effort (developing statistics on adjournment rates, for example), the ability of untrained personnel to successfully prepare monitors in collection techniques is less certain. As a result, one of the initial determinations a project director or steering committee must make is whether the project objectives are within the capabilities of the staff as well as the volunteers.

The training schedule will depend in part on the amount of information the monitors must learn, but most projects devote between one and two weeks to classroom training. If possible, it is best to schedule each training session on two different days at different times to allow for variations in the availability of volunteers. It is also important to leave time at the end of each session so that monitors can ask questions and problems can be clarified before the actual monitoring takes place. Once monitoring has begun, any misunderstanding that may have developed during the training period will be compounded over the following months of court monitoring. Some court monitoring projects conduct monthly meetings with their monitors to answer questions and get feedback about the data forms and other potential problem areas. Guest speakers with a perspective on the criminal justice system can make such meetings informative and may suggest other areas of the system that warrant citizen involvement. These regular meetings not only provide the volunteers with useful information but also give them another opportunity to get to know each other and feel they are a part of an overall effort.

### 5.3.5 Communications with the Judiciary

In the early days of court watching, it was the general practice not to communicate with a judge before the monitoring began, lest the project compromise its objectives. In many cases this resulted in confusion and misunderstanding.

Perhaps the best way to approach the situation is to prepare a letter to each judge whose court will be monitored containing the following information:

- Names and affiliations of local advisory committee;
- Goals of the project;
- A statement indicating the desire for cooperation, ideas and suggestions from the judge;
- A request for a meeting to discuss the project before the monitoring begins.

This letter should be followed shortly by a telephone call to the judge requesting an interview to discuss the project goals in greater depth.

It is frequently helpful to have three or four persons share in this meeting, including the chairperson of the advisory committee, the program coordinator and perhaps one or two volunteer monitors. The main reasons for this suggestion are:

1) It helps everyone's recollection when there are more than two people remembering what is said at an interview;
2) The discussion process may be more creative and meaningful when three or four people are involved;
3) Participating in an interview with a judge is an extremely positive way to further involve volunteers.

After the decision is made on who is to attend the meeting, it usually proves helpful to designate one member of the group as the spokesperson and another to take extensive notes.

Furthermore, it is always helpful for the interviewing group to prepare an agenda prior to the meeting. Items to consider for discussion might include the specific goals and objectives of the project; any particular problems the judge has with the program as a whole; enlisting the judge's cooperation with opening up lines of communication with other appropriate court personnel; a discussion of the logistics of court watching (some judges are willing to set aside a portion of the courtroom for the monitors); a discussion of how the draft report will be prepared and the nature of the input available to the judge before final publication.

This initial meeting is basically intended to lay the groundwork for the court watching project. It may also lend itself to a discussion of some of the technical problems, such as how the observers may secure a copy of the daily or weekly calendar.

Once the project has completed its in-court observations, the draft report should be carefully prepared by the staff and discussed with the local advisory committee. When this process is completed, the draft should be sent to each of the judges observed along with a cover letter inviting their comments and suggesting a meeting to discuss the report. At that meeting the staff should evaluate suggestions or changes submitted by the judge.

Two final points should be emphasized again. First, the purpose of all this communication with the judiciary is to emphasize accuracy and cooperation. Second, every report must state the facts as found by the court monitoring project. Comments and suggestions made by judges should be reviewed carefully, but in the final analysis, the project must prepare a final report without fear of or intimidation by the local judge.

### 5.3.6 Use of the Media

One of the primary goals of most court monitoring projects is to raise the community's interest and awareness about the problems in the courts. Furthermore, any pressure for change in the judicial system is likely to be more successful if it has the support of a wide segment of the community. Thus, the successful use of the press and other media has an important effect on the impact of each stage of a court monitoring effort.

At the onset of the project, the local newspaper can function as the ideal means of announcing the establishment of a court monitoring effort and thus interest potential volunteers in the project. Several ongoing projects have reported that a large number of their monitors volunteered even before the project's recruitment drive began, after learning of the project in the newspapers. The initial publicity also insures that the project does not appear secretive and that its objectives are not misunderstood by the public or members of the judiciary. Misinformation and rumors do little to enhance the credibility of a court monitoring effort.

Perhaps the most powerful service the media can provide is to publicize a project's findings and recommendations once the actual court monitoring efforts have been concluded. Newspaper coverage of a final report not only insures that the project's findings will reach a large portion of the community, but in addition, the widespread publicity makes ignoring the report that much more difficult for a resistant or uncooperative judiciary.

However, the tremendous power of the media brings with it certain responsibilities. Before releasing the report, it is important to inform the monitored judges of the project findings and solicit their comments on the report. While this courtesy will in no way diminish the quality or content of the report, any misinformation or misrepresentations may be pointed out before causing public embarrassment for both the judge and the project. More importantly, distributing rough drafts of the report helps to preserve an atmosphere of cooperation which can be essential if any constructive changes are to come of the monitoring effort. To this end, some court watching projects have omitted specific names of judicial personnel from their public report, while including the names in the drafts submitted to the judges. The Illinois Court Watching Project, for example, would not release the names of court personnel mentioned in their report, but referred inquiries to the Illinois Law Enforcement Commission. The ILEC had been given copies of the unedited reports and could release the confidential material as it saw fit.

The withholding of specific names in the public report also limits the potential misuse of the report in the future. One incumbent judge, mentioned in the League of Women Voters' Illinois Court Watching Project, stated in an election campaign brochure that he had been given a high rating by the project, implying that the LWV was in support of his re-election. Such tactics can threaten the integrity of a court watching project that has maintained a nonpartisan perspective throughout the court monitoring. The project has since asked judges not to cite the report in their campaign literature and copies of the report sent to judges are now marked confidential.

It should be noted that not all projects are opposed to their findings being used to advance political candidacies. The Rainier Community Action Center of Seattle, Washington, rated incumbent judges "unacceptable," "recommended," and "acceptable" based on the sentencing practices of the monitored judges. Those judges found to be "too soft on the criminal" were unacceptable, and leaflets distributed at the voting polls by the Action Center opposed their re-election. At the same time, those judges who received favorable ratings were supported in their re-election bid and their campaign literature reflected that support.

When the court monitoring report is finally released to the public, a timely use of the media can contribute to the recognition and implementation of the report's recommendations. A well-planned news conference, during which the recommendations are outlined and the report is released to the press, can attract both newspapers and television coverage and result in a major media event. Once the project's findings have gained some attention, follow-up stories, editorials and even interview programs can serve to perpetuate public interest in court reform in general and the project's recommendations in particular. Once a sufficient degree of public support has been reached, the press and other media are likely to reflect the public concern and exert pressure for judicial reform.

Because a successful media campaign can have a significant influence on the impact of the project's final report, there is a strong argument for designating one member of the project as the media coordinator. The coordinator's responsibilities might include preparing news releases, making contacts with reporters and editors, and keeping the media informed of the progress of the monitoring efforts. The media coordinator might also serve as the spokesperson for the court monitoring project, appearing on interviews and presenting the project's position on the relevant issues. Appointing a spokesperson for the group also minimizes the problem of self-appointed spokespeople speaking on behalf of the project and thus misrepresenting or confusing the issues. Although well-intentioned, these "spokespeople" often make statements which are damaging to the integrity of the monitoring effort and give the impression that the project is poorly organized. Some projects, including the Illinois Court Watching Project, have instructed their monitors not to discuss the project or its findings with the press but to refer the press to a representative of the steering committee.

## 5.4 Assessment of Achievement

To assess achievement in court watching projects is a most difficult task if one intends to go beyond the assumption that the existence of a program to place volunteer citizens in courts is itself a measure of success. If one supports the premise that it is desirable to open the courts to public review (a premise with which few would disagree), then the continued ability of local units to draw volunteer support serves as an important measure of achievement of this basic goal.

Frequently, goal statements imply that changes in the court system are to occur as a result of observations, data collection, analysis and recommendations of court watchers. Therefore, the more narrowly defined the goals and the more carefully designed the methodology, the easier it is to assess the project's achievements. For example, projects collecting statistical data can be evaluated on the reliability of the data, monitor attendance, and questionnaire format. If court watchers are concerned with the quality of court personnel and facilities, what problem areas are pinpointed? How carefully are they documented? What recommendations are made? In short, measuring the attainment of project goals requires an assessment of:

- Whether new information was generated by the project;
- Whether court behavior was changed in response to this information; and
- Whether the resultant changes had salutary effects.

Evidence on the first of these questions frequently comes from the reports and press releases generated by the project or its volunteers. The press materials provided by the New York and Illinois projects quote extensively from the projects' formal reports, which appear to be the principal vehicle of information dissemination.

Assessing the extent of court behavior modification and determining the role of the court watchers in effecting change is far less straightforward. Recommendations range from actions which are directly observable--posting of signs, repair or replacement of facilities, publication of documents--to actions which may be difficult either to define or to observe--better preparation by litigants, improved communication between judges and administrators, discouraging "unnecessary" adjournments. An evaluator can deal with the first class of recommendations by observing well-defined events: the sign is there, or it isn't; the sound system works, or it doesn't. To approach the second class, which clearly contains the more interesting and far-reaching implications of court watching, one must first operationalize the recommendations at a fairly detailed level: In what areas should litigants be better prepared? When, and by what standards of preparation? What information needs to be transmitted from judges to administrators (or the other way)? How soon, with what reliability, in which cases, and what is to be accomplished as evidence that the communication has occurred?

Reaching this level of quantification is (1) essential for measurement to make any sense, and (2) substantially more technical than most of the work evidenced by the projects reviewed in this Monograph. Given the rather limited involvement that can be demanded of most volunteers, as well as their apparent skill mix, it is neither fair nor realistic to demand high levels of professionalism in their articulation of objectives. Even in their most general form, the projects' recommendations may serve important purposes of raising public consciousness, keeping the system aware of citizen concern, and identifying the prevalence of court problems. They are not, however, specific enough for measurement purposes.

A further complication arises from the concurrence of other changes in the court system with court watchers' recommendations. The temptation of court watchers to "adopt a position" on current issues such as plea bargaining, mandatory sentences, and treatment of juveniles is seemingly inevitable. In each of these highly sensitive issues the courts may take some action, whether watched or not.

There is no direct empirical way to separate instances where project recommendations influenced decisions from those where the watchers and the courts simply happened to choose the same side of an issue. One could construct designs where delays or local variations in the publication of reports recommending revised court procedures would be used as a quasi-experimental manipulation to test the response of the system to the publication. It is not likely that such complexity is a realistic option in many court watching projects, however, where getting the recommendations published will assume priority over experimental considerations.

Dealing with the third question--effects of project-supported change--is even less manageable. Each such action requires the construction of a set of objectives, different from the implementation questions discussed above, which are subject to empirical measurement. For each measure, an experimental or quasi-experimental test is required, and except in extremely blatant cases, such tests must be fairly sensitive--hence requiring a large-scale data collection effort and/or a long period of time. Once again, such designs are likely to exceed the technical capacity and available resources of a small volunteer staff.

## 5.5 Summary

In summary, court watching projects are perhaps best viewed both as a vehicle for practical improvements in court procedure and as a method for raising the public consciousness on significant criminal justice issues. With respect to the former, most projects have served to make the courts more accessible to participants in the criminal justice process as well as the public. As the New York report notes,

> *"Perhaps most important is that the citizens and their local judiciary are beginning to meet and to listen to one another's problems, suggestions and attitudes. It is hoped that this momentum will continue and be built upon to create a real community dialogue that will have a chance of bolstering the public's confidence in the system and of making real and lasting improvements in the criminal justice process."*

# APPENDIX A

## Data Collection Forms, Illinois Court Monitoring Project

## REPORT FORM FOR PHYSICAL / INFORMATION FACILITIES

(One time only!)

*Instructions: Please fill out this form only once and return it to your local coordinator with your regular report forms.*

County of ______________________ Date ________ / ________
Month Day

Type of facility in which courtroom is located ______________________
For example: courthouse, municipal building, police station)

Room number ___________

Name of monitor ______________________________

1. What information facilities are there to direct people to proper courtroom, answer questions from the public etc.? (Describe.)

________________________________________________________________

________________________________ ____________________________

________________________________________________________________

______________________ ________________________________________

Do you consider them adequate? ☐ Yes ☐ No

2. Are pamphlets available to the public explaining procedures, rights? If "yes," enclose sample.
☐ Yes ☐ No

3. Is the current day's calendar posted? ☐ Yes ☐ No

If "yes," where? (Inside courtroom, just outside the door to the courtroom, dwon the hall. . .)

______________________________

4. Is notice of defendant's rights posted inside the courtroom? ☐ Yes ☐ No

If "yes," is notice provided in any language other than English? ☐ Yes ☐ No

What language? ______________________________

5. Is there a special waiting room for witnesses? ☐ Yes ☐ No

If not, where do they assemble? __________ ______________

6. Are there rooms for PD's, state's attorneys, other lawyers to confer with their clients? ☐ Yes ☐ No

If not, where do they confer? ______________________________________

*Illinois Court Watching Project*

## BOND HEARING REPORT

Code # ____/____ - ________ - ________
(Date) (Room #) (Monitor #)

| | (1)<br>Name of Defendant | (2)<br>Charge | (3)<br>Did defendant have lawyer present? | | (4)<br>Did judge ask about: (check) | | | | | (5)<br>Type of Bond Set: | | | (6)<br>If bail, total amount: | (7)<br>Remarks: (E.g., How long in custody? If bond reduction or increase asked, what happened? If case dismissed, note here. Continue on back if necessary.) | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | Yes | No | Past record | Financial ability | Employment | Family ties | Community ties | ROR | Bail | None | | | |
| 1 | | | | | | | | | | | | | $ | | 1 |
| 2 | | | | | | | | | | | | | | | 2 |
| 3 | | | | | | | | | | | | | | | 3 |
| 4 | | | | | | | | | | | | | | | 4 |
| 5 | | | | | | | | | | | | | | | 5 |
| 6 | | | | | | | | | | | | | | | 6 |
| 7 | | | | | | | | | | | | | | | 7 |
| 8 | | | | | | | | | | | | | | | 8 |
| 9 | | | | | | | | | | | | | | | 9 |
| 10 | | | | | | | | | | | | | | | 10 |
| 11 | | | | | | | | | | | | | | | 11 |
| 12 | | | | | | | | | | | | | | | 12 |
| 13 | | | | | | | | | | | | | | | 13 |
| 14 | | | | | | | | | | | | | | | 14 |
| 15 | | | | | | | | | | | | | | | 15 |
| TOTALS | | | | | | | | | | | | | | | |

80/81

## EXPLANATIONS (IF NEEDED)

40. CLERKS --

41. INFORMING PUBLIC --

45. INTERPRETERS --

46. ADMONISHMENTS --

49. DISCRIMINATION? --

50. FAVORITISM? --

58. APPEARANCE OF IMPROPRIETY? --

59. NOTEWORTHY ASPECTS --

60. IMPRESSIONS --

CONDUCT OF JUDGE

46. Before accepting a guilty plea, did the judge always give the proper admonishments? (Refer to Column 5 on CASE OBSERVATION REPORT.) If "no," explain circumstances on back page. ☐ Yes ☐ No

47. Before granting a continuance, did the judge usually make an effort to find out why it was necessary? ☐ Yes ☐ No

48. Did the judge seem to exert proper control over attorneys and court personnel to give the courtroom a businesslike atmosphere? ☐ Yes ☐ No

49. Did the judge appear to discriminate against certain groups or kinds of people (e.g. minorities, "long hairs," ethnic groups)? If "yes," explain on back page. ☐ Yes ☐ No

50. Did the judge give the appearance of favoring either defense or prosecution? ☐ Yes ☐ No

If "yes", which? (Explain on back page.) ☐ Def. ☐ Pros.

51. Did the judge usually give the defendant a chance to tell his side of the story? ☐ Yes ☐ No

52. Did he usually try to explain the sentence to the defendant? ☐ Yes ☐ No

53. Did the judge use language that most defendants appeared to understand? ☐ Yes ☐ No

54. Did you usually understand the judge? ☐ Yes ☐ No

55. Was he attentive when someone spoke to him? ☐ Yes ☐ No

56. Was he patient when someone did not fully understand or was not satisfied? ☐ Yes ☐ No

57. In general, which of these best describe the courtesy and respect the judge showed to:

| | Excellent | Adequate | Sometimes Inadequate | Often Inadequate |
|---|---|---|---|---|
| a. Defendants | ☐ | ☐ | ☐ | ☐ |
| b. Defense attorneys | ☐ | ☐ | ☐ | ☐ |
| c. State's witnesses/complainants | ☐ | ☐ | ☐ | ☐ |
| d. Prosecutors | ☐ | ☐ | ☐ | ☐ |

58. Was there anything about the judge's conduct on the bench that gave the appearance of impropriety? If "yes," explain on back page. ☐ Yes ☐ No

59. If you wish, describe on back any noteworthy aspects--good or bad--of the judge's performance, such as: decisiveness, legal ability, dignity, competence, discipline of unprofessional conduct of attorneys, diligence in trying to ascertain the facts. ☐ Check here if described

IMPRESSION

60. Put yourself in the place of a defendant, complainant or witness in the courtroom you have just observed. Taking everything into account--actions and attitudes of judge, bailiffs, clerks; behavior of prosecutor and defense attorney; the general feeling of the place--would you have left the court with the feeling that justice was being fairly administered? If not, explain on back. ☐ Yes ☐ No

PLEASE BE SURE YOU HAVE ANSWERED ALL QUESTIONS.

## EVALUATION OF FACILITIES AND PERSONNEL

**AUDIBILITY AND FACILITIES**

50. Seating space in the courtroom today was: ☐ Adequate ☐ Inadequate.

31. Upkeep and cleanliness in courtroom were: ☐ Adequate ☐ Inadequate

32. How much of the proceedings could you hear? ☐ Nearly all ☐ Some ☐ Almost none

33. How much of the proceedings do you think the audience could hear? ☐ Nearly all ☐ Some ☐ Almost none

34. Did the judge usually speak loudly and distinctly enough to be heard by the audience? ☐ Yes ☐ No

35. Did any of the following interfere with the audience's ability to hear?

| | Yes | No |
|---|---|---|
| a. Talking among audience | ☐ | ☐ |
| b. Talking among court personnel (other than judge, lawyers on case) | ☐ | ☐ |
| c. Noise of audience entering, leaving, moving about | ☐ | ☐ |
| d. Noise of court personnel entering, leaving, moving about | ☐ | ☐ |
| e. Heating or cooling systems | ☐ | ☐ |
| f. Sounds from outside courtroom | ☐ | ☐ |
| g. Other: ____________________ | | |

**BEHAVIOR OF BAILIFFS**

36. Did bailiffs adequately explain to people when to step forward, where to stand, when to exit? ☐ Yes ☐ Sometimes ☐ No

37. Were they courteous when doing so? ☐ Yes ☐ Sometimes ☐ No

38. Were they patient, polite and dignified in keeping order and answering questions? ☐ Yes ☐ Sometimes ☐ No

**BEHAVIOR OF CLERKS**

39. Was the clerk polite in calling cases and answering questions? ☐ Yes ☐ No

40. Did the clerk appear to accord special treatment to certain individuals? If yes, explain on back page. ☐ Yes ☐ No

**INFORMING THE PUBLIC**

41. With what questions and problems did people most often turn to bailiffs and clerks? Put typical questions and responses on back page. ☐ Check here if answered on reverse side.

**INTERPRETERS**

42. Did you see any non-English speaking defendants or witnesses today? ☐ Yes ☐ No

How many? __________

43. If "yes": how many were given court-appointed interpreter? ______

44. How many provided own interpreter? ______

45. If neither of above, what happened? Please explain on back. ☐ Check here if answered on reverse side.

ILLINOIS COURT WATCHING PROJECT Code # ____/____-____-____
(Date) (Room #) (Monitor #)

## DAILY SUMMARY SHEET

(one a day per courtroom)

County: ____________ Name of judge: ____________

Location of courtroom: ____________ Type of proceedings being heard today: ____________

Name of monitor: ____________ ____________

MORNING

*Time court scheduled to start* ______

*Time 1st case called* ______

*Time adjourned for lunch* ______

*Total # a.m. hours in session* ______

If late start, how late? (9) ☐ mins

AFTERNOON

*Time court scheduled to start* ______

*Time 1st case called* ______

*Time adjourned for lunch* ______

*Total # p.m. hours in session* ______

If late start, how late? (10) ☐ mins

TOTAL TIME COURT IN SESSION FOR DAY *(Add a.m. and p.m. hours above.)* (11) ☐ hrs.

TOTAL # CASES ON CALENDAR (12) ☐

TOTAL # CASES REPRESENTING VICTIMLESS CRIMES (13) ☐

CONTINUANCES

TOTAL # REQUESTED BY:

- Defense (14) ☐
- Prosecution (15) ☐
- Agreement (16) ☐
- Order of Court (17) ☐

TOTAL # CONTINUANCES GRANTED (18) ☐

TOTAL # CONTINUANCES REFUSED (19) ☐

REASONS GIVEN:

- Obtaining defense counsel (20) ☐
- Jury Demand (21) ☐
- Defense not ready (22) ☐
- Defense lawyer busy (23) ☐
- Prosecution not ready (24) ☐
- Complainant or witness absent (25) ☐
- Deferred Prosecution/DWI School (26) ☐
- Other (27) ☐
- None (28) ☐
- Don't know (29) ☐

## MISDEMEANOR
## CASE OBSERVATION REPORT

Code # ____/____ - ________ - ________
(Date) (Room #) (Monitor #)

*Illinois Court Watching Project*

| BASIC INFORMATION | | | CONTINUANCES | | | | | | | | | | | | | | | | ADMONISHMENTS | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| (1) | (2) | (3) | (4) Requested by: | | | | (5) Reason given: | | | | | | | | | | (6) | | (7) | | (8) | | |
| Name of Defendant: (list) | Charge: (list) | VC? | Defense | Prosecution | Agreement | Order of court | Obtaining defense counsel | Jury Demand | Defense not ready | Defense lawyer busy | Prosecution not ready | Complainant or witness absent | Deferred Prosecution/DWI School | Other | None | Don't know | Was it granted? Yes | No | Plea G. | N.G. | If guilty plea, were admonishments given? Yes | No | |
| | | | | | | | | | | | | | | | | | | | | | | | 1 |
| | | | | | | | | | | | | | | | | | | | | | | | 2 |
| | | | | | | | | | | | | | | | | | | | | | | | 3 |
| | | | | | | | | | | | | | | | | | | | | | | | 4 |
| | | | | | | | | | | | | | | | | | | | | | | | 5 |
| | | | | | | | | | | | | | | | | | | | | | | | 6 |
| | | | | | | | | | | | | | | | | | | | | | | | 7 |
| | | | | | | | | | | | | | | | | | | | | | | | 8 |
| | | | | | | | | | | | | | | | | | | | | | | | 9 |
| | | | | | | | | | | | | | | | | | | | | | | | 10 |
| | | | | | | | | | | | | | | | | | | | | | | | 11 |
| | | | | | | | | | | | | | | | | | | | | | | | 12 |
| | | | | | | | | | | | | | | | | | | | | | | | 13 |
| | | | | | | | | | | | | | | | | | | | | | | | 14 |
| | | | | | | | | | | | | | | | | | | | | | | | 15 |
| TOTALS | | | | | | | | | | | | | | | | | | | | | | | |

86/87

## EXPLANATIONS (IF NEEDED)

37. CLERKS --

38. INFORMING PUBLIC --

42. INTERPRETERS --

43. ADMONISHMENTS --

46. DISCRIMINATION? --

47. FAVORITISM? --

54. APPEARANCE OF IMPROPRIETY? --

55. NOTEWORTHY ASPECTS --

56. GENERAL IMPRESSIONS --

THANKS

## EVALUATION (CONTINUED)

CONDUCT OF JUDGE

43. Before accepting a guilty plea, did the judge always give the proper admonishments? (Refer to Col. 9 on Preliminary Hearing Report.) If "no," explain circumstances on back page. ☐ Yes ☐ No

44. Before granting a continuance, did the judge usually make an effort to find out why it was necessary? ☐ Yes ☐ No

45. Did the judge seem to exert proper control over attorneys and court personnel to give the courtroom a businesslike atmosphere? ☐ Yes ☐ No

46. Did the judge appear to discriminate against certain groups or kinds of people (e.g. minorities, "long hairs," ethnic groups)? If "yes," explain on back page. ☐ Yes ☐ No

47. Did the judge give the appearance of favoring either defense or prosecution? ☐ Yes ☐ No

If "yes," which? (Explain on back page.) ☐ Def. ☐ Pros.

48. Was the defense precluded from presenting evidence? ☐ Yes ☐ No

49. Did the judge use language that most defendants appeared to understand? ☐ Yes ☐ No

50. Did you usually understand the judge? ☐ Yes ☐ No

51. Was he attentive when someone spoke to him? ☐ Yes ☐ No

52. Was he patient when someone did not fully undertand or was not satisfied? ☐ Yes ☐ No

53. In general, which of these best describe the courtesy and respect the judge showed to:

| | Excellent | Adequate | Sometimes Inadequate | Often Inadequate |
|---|---|---|---|---|
| a. Defendants | ☐ | ☐ | ☐ | ☐ |
| b. Defense attorneys | ☐ | ☐ | ☐ | ☐ |
| c. State's witnesses/complainants | ☐ | ☐ | ☐ | ☐ |
| d. Prosecutors | ☐ | ☐ | ☐ | ☐ |

54. Was there anything about the judge's conduct on the bench that gave the appearance of impropriety? If "yes," explain on back page. ☐ Yes ☐ No

55. If you wish, describe on back any noteworthy aspects--good or bad--of the judge's performance such as: decisiveness, legal ability, dignity, competence, discipline of unprofessional conduct of attorneys, diligence in trying to ascertain the facts, criteria used for appointing a public defender. ☐ Check here if described

IMPRESSIONS

56. Put yourself in the place of a defendant, complainant or witness in the courtroom you have just observed. Taking everything into account--actions and attitudes of judge, bailiffs, clerks; behavior of prosecutor and defense attorney; the general feeling of the place--would you have left the court with the feeling that justice was being fairly administered? If not, explain on back. ☐ Yes ☐ No

PLEASE BE SURE YOU HAVE ANSWERED ALL QUESTIONS.

# EVALUATION OF FACILITIES AND PERSONNEL

**AUDIBILITY AND FACILITIES**

27. Seating space in the courtroom today was: ☐ Adequate ☐ Inadequate

28. Upkeep and cleanliness in courtroom were: ☐ Adequate ☐ Inadequate

29. How much of the proceedings could you hear? ☐ Nearly all ☐ Some ☐ Almost none

30. How much of the proceedings do you think the audience could hear? ☐ Nearly all ☐ Some ☐ Almost none

31. Did the judge usually speak loudly and distinctly enough to be heard by the audience? ☐ Yes ☐ No

32. Did any of the following interfere with the audience's ability to hear?

| | Yes | No |
|---|---|---|
| a. Talking among audience | ☐ | ☐ |
| b. Talking among court personnel (other than judge, lawyers on case) | ☐ | ☐ |
| c. Noise of audience entering, leaving, moving about | ☐ | ☐ |
| d. Noise of court personnel entering, leaving, moving about | ☐ | ☐ |
| e. Heating or cooling systems | ☐ | ☐ |
| f. Sounds from outside courtroom | ☐ | ☐ |
| g. Other: ______________________ | | |

**BEHAVIOR OF BAILIFFS**

33. Did bailiffs adequately explain to people when to step forward, where to stand, when to exit? ☐ Yes ☐ Sometimes ☐ No

34. Were they courteous when doing so? ☐ Yes ☐ Sometimes ☐ No

35. Were they patient, polite and dignified in keeping order and answering questions? ☐ Yes ☐ Sometimes ☐ No

**BEHAVIOR OF CLERKS**

36. Was the clerk polite in calling cases and answering questions? ☐ Yes ☐ No

37. Did the clerk appear to accord special treatment to certain individuals? If yes, explain on back page. ☐ Yes ☐ No

**INFORMING THE PUBLIC**

38. With what questions and problems did people most often turn to bailiffs and clerks? Put typical questions and responses on back page. ☐ Check here if answered on reverse side.

**INTERPRETERS**

39. Did you see any non-English speaking defendants or witnesses today? ☐ Yes ☐ No

How many? ____________

40. If "yes": how many were given court-appointed interpreter? ______

41. How many provided own interpreter? ______

42. If neither of above, what happened? Please explain on back. ☐ Check here if answered on reverse side.

*ILLINOIS COURT WATCHING PROJECT*

Code # ___/___ - ________ - ________
*(Date)* *(Room #)* *(Monitor #)*

## FPH DAILY SUMMARY SHEET

(one a day per courtroom)

County: ________________
Name of judge: ________________
Location of courtroom: ________________
Type of proceedings being heard today: ________________
Name of monitor: ________________

**MORNING**

*Time court scheduled to start* ________
*Time 1st case called* ________
*Time adjourned for lunch* ________
*If late start, how late?* (1) ☐ mins.
*Total # a.m. hours in session* ________

**AFTERNOON**

*Time court scheduled to start* ________
*Time 1st case called* ________
*Time adjourned* ________
*If late start, how late?* (2) ☐ mins.
*Total # p.m. hours in session* ________

**TOTAL TIME COURT IN SESSION FOR DAY** *(add a.m. and p.m. hours above.)* (3) ☐
**TOTAL # CASES ON CALENDAR** (4) ☐
**TOTAL # CASES REPRESENTED BY PUBLIC DEFENDER** (5) ☐
**TOTAL # REDUCED CHARGES** (6) ☐

**CONTINUANCES**

**TOTAL # REQUESTED BY:**

Defense (7) ☐
State (8) ☐
Agreement (9) ☐
Order of court (10) ☐

**REASONS GIVEN:**

For defendant to obtain lawyer (11) ☐
Defense lawyer not present (12) ☐
Defense lawyer present but not ready (13) ☐
Negotiations underway (14) ☐
State not ready (15) ☐
Other (16) ☐
None (17) ☐
Don't know (18) ☐

**TOTAL # CONTINUANCES GRANTED** (19) ☐
**TOTAL # CONTINUANCES DENIED** (20) ☐

**DISPOSITIONS**

Waive FPH (21) ☐
BFW (22) ☐
NP/SOL/DWP (23) ☐
No probable cause found (24) ☐
Probable cause found (25) ☐
HOC after probable cause (26) ☐

Guilty pleas *(See page 3 of this form.)*

Illinois Court Watching Project

## PRELIMINARY HEARING REPORT

Code # ____/____ - ________ - ________
(Date) (Room #) (Monitor #)

| | BASIC INFORMATION | | | | CONTINUANCES | | | | | | | | | | | | | | DISPOSITION | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | (1) | (2) | (3) | (4) | (5) Requested by: | | | | (6) Reason given: | | | | | | | | (7) | | (8) | | | | | | (9) | |
| | Name of defendant: (list) | PD? | Original charge: (list) | Reduced? (If so, check) | Defense | State | Agreement | Order of court | For defendant to obtain lawyer | Defense lawyer not present | Def. lawyer present but not ready | Negotiations under way | State not ready | Other | None | Don't know | Was it granted? Yes | No | Waive FPH | BFW | NP/SOL/DWP | No probable cause found | Probable cause found | NOC after probable cause | Plea: If guilty plea, were admonishment given? Yes | No |
| 1 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 2 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 3 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 4 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 5 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 6 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 7 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 8 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 9 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 10 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 11 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 12 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 13 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 14 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 15 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| TOTALS | | | | | | | | | | | | | | | | | | | | | | | | | | |

92/93

# APPENDIX B

## Summary of Recommendations,
## Illinois Court Watching Project

## SUMMARY OF RECOMMENDATIONS

## Illinois Court Watching Project

## 1975-76

That chief judges or circuit clerks submit budget requests to county boards for establishing and maintaining staffed information desks in the lobbies of all courthouses in which high-volume courts are located.

That the Illinois Supreme Court require all circuits to post daily calendars outside the door of all courtrooms used for the prosecution of misdemeanors and felonies. (The calendar should include, at the minimum, defendants' names, offenses charged, starting time of court call and name of judge.)

That the Illinois Supreme Court require that a bailiff or other court personnel be stationed in or near high-volume courtrooms 15 minutes before the start of each session to answer questions from the public or direct them to the proper person to answer their questions.

That a notice of defendant's rights be posted in each courtroom in which criminal proceedings are held "in a conspicuous place where it may be read by persons in custody and others..." as required by law (Ill. Rev. Stat. 38:103-7).

That the Illinois Supreme Court prepare an authorized version of the notice of defendant's rights in language more easily understood by lay persons and that this version be posted prominently in addition to the one copied from the statutes.

That the Illinois Supreme Court direct judges to adhere to Supreme Court Rule 402 which requires them to give proper admonishments to a defendant before accepting a guilty plea "by addressing the defendant personally and in open court" to assure he is informed and to determine that he understands the consequences of the plea and that it is voluntary.

That the Illinois Supreme Court require that judges in courts hearing misdemeanors, traffic cases and felony preliminary hearings open each call with explanations of the type, order and purpose of proceedings to be conducted at that session and of defendant's rights; directions for any special procedures to be followed, such as payment of fines or application for bail refunds.

That the Illinois Supreme Court add the following to Rule 61, Standard (C) (8) "Consideration for Counsel and Others" at the end of the first paragraph: "The judge should take special care that parties, witnesses and others in attendance upon the court understand the nature of the proceeding, their rights and obligations and especially the ultimate disposition of the case."

That the Illinois State Bar Association update its brochure "Your Rights if Arrested" and arrange for wider distribution of it to provide such practical information as: rights on arrest, explanation of how bail is set and what information would be useful to a judge in setting or reducing bail or granting release on recognizance; right to counsel and suggestions about how to obtain a private attorney or public defender; explanation of rights and procedures in misdemeanor trials and felony preliminary hearings.

That the Illinois Supreme Court institute a system for certifying qualified interpreters for persons who do not speak or understand English and for deaf persons; that it require lists of such interpreters to be maintained by the chief judge of each circuit and to be circulated to all judges in the circuit who hear criminal cases.

That the Illinois Supreme Court instruct judges to strictly observe the present rules and statutes dealing with continuances, especially the following: Illinois Supreme Court Rule 16, Standard (C)(17) which states, "In considering applications for continuances, a judge, without forcing cases unreasonably or unjustly to trial, should insist upon a proper observance of their duties to their clients, and to adverse parties and their counsel, so as to expedite the disposition of matters before the court."

That the Illinois Supreme Court Judicial Conference hold seminars for judges on conducting a proper bond hearing.

That the Illinois Supreme Court undertake a study of standardization of pre-trial release procedures.

That the Illinois Supreme Court establish a standard to determine indigency for the purpose of assigning a public defender or other court-appointed counsel.

That the Illinois State Bar Association take the lead in establishing a statewide "Lawyer/Citizen Committee for Better Court Facilities" to be composed of representatives of the civic, business, religious and professional communities.

That the Illinois Attorney General's Office provide voluntary training for assistant state's attorneys on a statewide basis.

That the Illinois Supreme Court consistently remind trial judges of their obligations under Supreme Court Rule 61, Standard (C)(8), "Consideration for Counsel and Others."

## APPENDIX C

### Court Monitor's Handbook (Criminal Courts), Fund for Modern Courts, New York

# COURT MONITOR'S HANDBOOK

Published by the

Fund for Modern Courts, Inc.
Court Monitoring Project
Under a grant from the N.Y. State
Division of Criminal Justice Services
October, 1975

Staff
Project Director – Fern Schair
Administrative Assistant – Bernice Stone
Research Assistant – Karla Spaulding

Local Coordinators
Glens Falls – Jeanne Moore
New York City – Sondra Solomon
Poughkeepsie – Kirk Rumble
Rochester – Anne Nelson

# COURT MONITORING PROJECT

# I – INTRODUCTION

## THE PROBLEM

The advice given years ago by Charles Evans Hughes, Chief Justice of the United States Supreme Court (1930-41), still seems appropriate: "The Supreme Court of the United States and the courts of appeal will take care of themselves. Look after the courts of the poor, who stand most in need of justice. The security of the republic will be found in the treatment of the poor and ignorant; in indifference to their misery and helplessness lies disaster."

The message that all is not right with the administration of these courts has come through clearly enough. However, people are confused about what is wrong and what might be done about it.

The need for significant change in this area is well-documented. In mid-1970, the New York State legislature created a Temporary Commission on the New York State Court System, chaired by State Senator D. Clinton Dominick. After nearly two years of extensive work, it produced a report in January, 1973 which recommended sweeping reforms. In the words of the report:

> "Although the Commission found much that is right with the state court system, it found too much that is wrong. Administrative responsibility is fragmented. Criminal and civil case backlogs are too large. The need to resort to plea bargaining in criminal cases is too prevalent. Judges and other court personnel are allocated unevenly. Coordination with court-related agencies is insufficient. Long-range planning and the collection and analysis of data are deficient." Dominick Commission Report, p.1.

Some citizen groups criticize antiquated procedures. Judges cite an increasing volume of cases, inadequate courtroom space, lack of personnel, and excessive demands for continuances. Criminologists point accusing fingers at laws attempting to regulate morality for jamming the courts with "victimless" crimes.

To what extent these factors affect the quality of justice administered in the state's criminal courts is uncertain. The Fund for Modern Courts, Inc. believes that this monitoring project provides one way for interested citizens to assess the various charges being leveled at their courts and to work with the judiciary and the public toward improving the system.

## MONITOR'S HANDBOOK

## CONTENTS

I Introduction

II Crimes

III The Criminal Justice Process

IV Defendant's Rights

V Role of the Prosecutor and Defense Attorney

VI Additional Personnel

VII Glossary

VIII Bibliography

Appendix A – New York State Court Structure

Appendix B – Instructions for Monitors

## THE PROJECT

The Fund for Modern Courts, Inc. is sponsoring a program of court monitoring that is funded by the N.Y. State Division of Criminal Justice Services. This project is designed as the first half of a three-year program to utilize trained volunteers to monitor and report on the trial process within selected courts in New York State.

Demonstration projects are being initiated in four areas – New York City, Rochester (upstate urban), Glens Falls (upstate rural), and Poughkeepsie (mixed).

Our goals are: 1) Collecting and evaluating data on factors affecting the quality of justice and 2) developing a universal model for citizens to use in other communities in monitoring their courts.

The anticipated results are:

> Specific recommendations for upgrading the courts. They may include suggestions for 1) improvement of physical facilities, 2) addition of personnel, 3) changes in the law or procedures.
>
> Better public understanding of problems in administering justice and support for improving the system.
>
> Establishment of a continuing dialogue between citizens and their judiciary.

The criminal courts were chosen for the first phase of the project because they are "the people's courts," the place where most offenders meet the law for the first time. As such, they should be models which exemplify justice under law.

## THE FUND FOR MODERN COURTS, INC.

The Fund for Modern Courts, Inc. is an organization of people who are concerned about the system of administering justice in New York State. The Fund does research on practices and institutions of our courts and related services and seeks to educate the public about the nature and problems of our court system.

Through its individual members, professional staff and Board of Directors, the Fund coordinates the activities of regional chapters in key cities throughout the State, among them Albany, Buffalo, Syracuse, Rochester and Rome-Utica. In addition, it is the focal point of a coalition of organizations which support the Fund and share its vital concern for court reform in New York State.

# II – CRIMES

In New York State there are no longer any common law crimes. All crimes are statutory; i.e. created and defined by laws made by the legislative branch of the State and Federal government.

Acts that are contrary to these laws may be classified as violations, misdemeanors or felonies. A violation is a relatively minor offense which is punishable by up to fifteen (15) days in jail and/or a fine of up to $250. Misdemeanors and felonies, however, are considered crimes. The punishment for a Class A misdemeanor may be a prison sentence of up to one year or probation of up to three years or a fine of up to $1,000. For a felony the penalty may be imprisonment for more than one year or a sentence of up to five (5) years of probation supervision.

On the following pages we have listed the offenses and crimes found in the Penal Law. By using this list, you will be able to translate the numbers of the charge you hear in court to the actual crime being charged.

In order to better understand the information on our list, please read the following keys

| Abbreviation | Category | Class | Possible Sentence |
|---|---|---|---|
| Fel | Felony | A | Life Imprisonment |
| | | B | up to 25 years |
| | | C | up to 15 years |
| | | D | up to 7 years |
| | | E | up to 4 years |
| Misd | Misdemeanor | A | up to 1 year |
| | | B | up to 3 months |
| Viol | Violation | | up to 15 days |

**100**

| | |
|---|---|
| 100.00 Criminal Solicitation | (Viol) |
| 100.05 Criminal Solicitation | (A Misd) |
| 100.10 Criminal Solicitation | (D Fel) |

**105**

| | |
|---|---|
| 105.00 Conspiracy 4th Deg. | (B Misd) |
| 105.05 Conspiracy 3rd Deg. | (A Misd) |
| 105.10 Conspiracy 2nd Deg. | (E Fel) |
| 105.15 Conspiracy 1st Deg. | (B Fel) |

**115**

| | |
|---|---|
| 115.00 Criminal Facilitation | (A Misd) |
| 115.05 Criminal Facilitation | (C Fel) |

**120**

| | |
|---|---|
| 120.00 Assault 3rd Deg. | (A Misd) |
| 120.05 Assault 2nd Deg. | (D Fel) |
| 120.10 Assault 1st Deg. | (C Fel) |
| 120.15 Menacing | (B Misd) |
| 120.20 Reckless Endangerment | (A Misd) |
| 120.25 Reckless Endangerment | (D Fel) |
| 120.30 Prom. or Suicide Att. | (E Fel) |

**125**

| | |
|---|---|
| 125.10 Homicide | (E Fel) |
| 125.15 Manslaughter 2nd Deg. | (C Fel) |
| 125.20 Manslaughter 1st Deg. | (B Fel) |
| 125.25 Murder 2nd Deg. | (A Fel) |
| 125.27 Murder 1st Deg. | (A Fel) |

| | |
|---|---|
| 125.40 Abortion 2nd Deg. | (E Fel) |
| 125.45 Abortion 1st Deg. | (D Fel) |
| 125.50 Self-Abortion 2nd Deg. | (B Misd) |
| 125.55 Self-Abort 24 Wks. preg | (A Misd) |
| 125.60 Issuing Abort. Articles | (B Misd) |

### 130

| | |
|---|---|
| 130.20 Sexual Misconduct | (A Misd) |
| 130.25 Rape 3rd Deg. | (E Fel) |
| 130.30 Rape 2nd Deg. | (D Fel) |
| 130.35 Rape 1st Deg. | (B Fel) |
| 130.38 Consensual Sodomy | (B Misd) |
| 130.40 Sodomy 3rd Deg. | (E Fel) |
| 130.45 Sodomy 2nd Deg. | (D Fel) |
| 130.50 Sodomy 1st Deg. | (B Fel) |
| 130.55 Sexual Abuse 3rd Deg. | (B Misd) |
| 130.60 Sexual Abuse 2nd Deg. | (A Misd) |
| 130.65 Sexual Abuse 1st Deg. | (D Fel) |

### 135

| | |
|---|---|
| 135.05 Unlaw Imprisonment 2nd | (A Misd) |
| 135.10 Unlaw Imprisonment 1st | (E Fel) |
| 135.20 Kidnapping 2nd Deg. | (B Fel) |
| 135.25 Kidnapping 1st Deg. | (A Fel) |
| 135.45 Custodial Interfere 2nd Deg. | (A Misd) |
| 135.50 Custodial Interfere 1st Deg. | (E Fel) |
| 135.55 Substitution of Children | (E Fel) |
| 135.60 Coercion 2nd Deg. | (A Misd) |
| 135.65 Coercion 1st Deg. | (D Fel) |

### 140

| | |
|---|---|
| 140.05 Crim. Trespass | (Viol) |
| 140.10 Crim. Trespass 3rd Deg. | (E Fel) |
| 140.15 Crim. Trespass 2nd Deg. | (A Misd) |
| 140.17 Crim. Trespass 1st Deg. | (D Fel) |
| 140.20 Burglary 3rd Deg. | (D Fel) |
| 140.25 Burglary 2nd Deg. | (C Fel) |
| 140.30 Burglary 1st Deg. | (B Fel) |
| 140.35 Poss. Burglary Tools | (A Misd) |
| 140.40 Unlawful Poss. Radio Device | (B Misd) |

### 145

| | |
|---|---|
| 145.00 Crim. Mischief 4th Deg. | (A Misd) |
| 145.05 Crim. Mischief 3rd Deg. | (E Fel) |
| 145.10 Crim. Mischief 2nd Deg. | (D Fel) |
| 145.12 Crim. Mischief 1st Deg. | (B Fel) |
| 145.15 Crim. Tampering 2nd Deg. | (B Misd) |
| 145.20 Crim. Tampering 1st Deg. | (D Fel) |
| 145.25 Reck. Endanger Property | (B Misd) |
| 145.30 Unlawful Posting ads | (Viol) |

### 150

| | |
|---|---|
| 150.05 Arson 4th Deg. | (E Fel) |
| 150.10 Arson 3rd Deg. | (C Fel) |
| 150.15 Arson 2nd Deg. | (B Fel) |
| 150.20 Arson 1st Deg. | (A Fel) |

### 155

| | |
|---|---|
| 155.25 Petit Larceny | (A Misd) |
| 155.30 Grand Larceny | |
| 155.30 Grand Larceny 3rd Deg. | (E Fel) |
| 155.35 Grand Larceny 2nd Deg. | (D Fel) |
| 155.40 Grand Larceny 1st Deg. | (C Fel) |

### 160

| | |
|---|---|
| 160.05 Robbery 3rd Deg. | (D Fel) |
| 160.10 Robbery 2nd Deg. | (C Fel) |
| 160.15 Robbery 1st Deg. | (B Fel) |

### 165

| | |
|---|---|
| 165.00 Misapplication of Property | (A Misd) |
| 165.05 Unauthorized Use Vehicle | (A Misd) |
| 165.07 Unlaw use Secret Science Mat. | (E Fel) |
| 165.15 Theft of Services | (A Misd) |
| 165.17 Unlawful use credit card | (A Misd) |
| 165.20 Fraud. Obtained Signature | (A Misd) |
| 165.25 Jostling | (A Misd) |
| 165.30 Fraudulent Accosting | (A Misd) |
| 165.35 Fortune Telling | (B Misd) |
| 165.40 Crim. Poss Stolen Prop. | (A Misd) |
| 165.45 Crim. Poss Stolen Prop. 2nd Deg. | (E Fel) |
| 165.50 Crim. Poss Stolen Prop. 1st Deg. | (D Fel) |

### 170

| | |
|---|---|
| 170.05 Forgery 3rd Deg. | (A Misd) |
| 170.10 Forgery 2nd Deg. | (D Fel) |
| 170.15 Forgery 1st Deg. | (C Fel) |
| 170.20 Poss. Forged Instrument 3rd Deg. | (A Misd) |
| 170.25 Poss. Forged Instrument 2nd Deg. | (D Fel) |
| 170.30 Poss. Forged Instrument 1st Deg. | (C Fel) |
| 170.40 Crim. Poss. Forged Device | (D Fel) |
| 170.45 Criminal Simulation | (A Misd) |
| 170.55 Unlaw. Using Slugs 2nd | (B Misd) |
| 170.60 Unlaw. Using Slugs 1st | (E Fel) |
| 170.65 Forged Vehicle ID No. | (E Fel) |
| 170.70 Illegal Poss. Vehicle ID | (E Fel) |

### 175

| | |
|---|---|
| 175.05 Falsifying Bus. Rec. 2nd | (A Misd) |
| 175.10 Falsifying Bus. Rec. 1st | (E Fel) |
| 175.20 Tampering Pub. Rec. 2nd | (A Misd) |
| 175.25 Tampering Pub. Rec. 1st | (D Fel) |
| 175.30 Offer False Instrument | (A Misd) |
| 175.35 Offer False Instrument | (E Fel) |
| 175.40 Issuing False Certificate | (E Fel) |
| 175.45 Iss. False Financial Stat | (A Misd) |
| 175.50 Pres. False Insur Claim | (A Misd) |

### 180

| | |
|---|---|
| 180.00 Commercial Bribing | (B Misd) |
| 180.05 Comm. Bribing Received | (B Misd) |
| 180.15 Bribing Labor Official | (D Fel) |
| 180.25 Bribe Received by Labor Off. | (D Fel) |
| 180.40 Sports Bribing | (D Fel) |
| 180.45 Sports Bribe Receiving | (E Fel) |
| 180.50 Tampering Sports Event | (A Misd) |
| 180.55 Rent Gouging | (B Misd) |

### 185

| | |
|---|---|
| 185.00 Fraud in Insolvency | (A Misd) |
| 185.05 Fraud-Security Interest | (A Misd) |
| 185.10 Fraud Disp. Mortgaged Prop. | (A Misd) |
| 185.15 Fraud Disp. Prop. Subject to Cond. Sales Contract | (A Misd) |

### 190

| | |
|---|---|
| 190.05 Issuing a Bad Check | (B Misd) |
| 190.20 False Advertising | (A Misd) |
| 190.25 Crim. Impersonation | (A Misd) |
| 190.30 Unlaw Concealing Will | (E Fel) |
| 190.35 Misconduct Corp. Off. | (B Misd) |
| 190.40 Criminal Usury | (E Fel) |
| 190.45 Poss. Usurious Loan Rec. | (A Misd) |
| 190.50a Unlawful Collection Practice | (B Misd) |
| 190.50b Making false statement of credit terms | (A Misd) |

### 195

| | |
|---|---|
| 195.00 Official Misconduct | (A Misd) |
| 195.05 Obstruct Govt. Admin. | (A Misd) |
| 195.10 Refusing to aid peace officer | (B Misd) |
| 195.15 Obstruct Firefighting Oper. | (A Misd) |

### 200

| | |
|---|---|
| 200.00 Bribery (public servant) 2nd Deg. | (D Fel) |
| 200.04 Bribery (public servant) 1st | (B Fel) |
| 200.10 Bribery Receive (pub. serv.) 2nd | (D Fel) |
| 200.12 Bribery Receive (pub. serv.) 1st | (B Fel) |
| 200.20 Rewarding Official Misconduct | (E Fel) |
| 200.25 Receive Reward of Misconduct | (E Fel) |
| 200.27 Receive Reward of Misconduct | (C Fel) |
| 200.30 Give Unlaw Gratuities | (A Misd) |
| 200.35 Receive Unlaw Gratuities | (A Misd) |
| 200.45 Bribe given for Pub. Office | (D Fel) |
| 200.50 Bribe receive for Pub. Office | (D Fel) |

### 205

| | |
|---|---|
| 205.05 Escape 3rd Degree | (A Misd) |
| 205.10 Escape 2nd Degree | (E Fel) |
| 205.15 Escape 1st Degree | (D Fel) |
| 205.16 Inmate Absconding 2nd | (A Misd) |
| 205.17 Inmate Absconding Hidden | (E Fel) |
| 205.18 Inmate Absconding (Furlough) | (A Misd) |
| 205.20 Promote Prison Contraband 2nd Degree | (A Misd) |
| 205.25 Prom. Prison Contraband 1st Degree | (D Fel) |
| 205.30 Resisting Arrest | (A Misd) |
| 205.55 Hindering Prosecution 3rd | (A Misd) |
| 205.60 Hindering Prosecution 2nd | (E Fel) |
| 205.65 Hindering Prosecution 1st | (D Fel) |

### 210

| | |
|---|---|
| 210.05 Perjury 3rd Degree | (A Misd) |
| 210.10 Perjury 2nd Degree | (E Fel) |
| 210.15 Perjury 1st Degree | (D Fel) |
| 210.35 Making Apparent false statement 2nd Degree | (A Misd) |
| 210.40 Making apparent false statement 1st Degree | (E Fel) |
| 210.45 Making a punishable false written statement | (A Misd) |

### 215

| | |
|---|---|
| 215.00 Bribing a witness | (D Fel) |
| 215.05 Bribe receiving by witness | (D Fel) |
| 215.10 Tampering with a witness | (A Misd) |
| 215.15 Bribing a juror | (D Fel) |
| 215.20 Juror receiving a bribe | (D Fel) |
| 215.25 Tampering with a juror | (A Misd) |
| 215.30 Misconduct by a juror | (A Misd) |
| 215.40 Tampering with physical evidence | (E Fel) |
| 215.45 Compounding crime | (A Misd) |
| 215.50 Criminal contempt 2nd Deg. | (A Misd) |
| 215.51 Criminal contempt 1st Deg. | (E Fel) |
| 215.56 Bail jumping 2nd Deg. | (A Misd) |
| 215.57 Bail jumping 1st Deg. | (E Fel) |
| 215.58 Fail. respond on appear. ticket | (Viol) |
| 215.60 Criminal contempt of Legislature | (A Misd) |
| 215.65 Criminal Contempt Temp. State Com. | (A Misd) |
| 215.70 Unlawful Grand Jury disclosure | (B Misd) |
| 215.75 Unlawful disclosure of indictment | (B Misd) |

### 220

| | |
|---|---|
| 220.03 Crim. Poss. controlled sub. (Drugs) 7th Deg. | (A Misd) |
| 220.06 Crim. poss. controlled sub. (Drugs) 6th Deg. | (D Fel) |
| 220.09 Crim. poss. controlled sub. (Drugs) 5th Deg. | (C Fel) |
| 220.12 Crim. poss. controlled sub. (Drugs) 4th Deg. | (B Fel) |
| 220.16 Crim. poss. controlled sub. (Drugs) 3rd Deg. | (A Fel) |
| 220.18 Crim. poss. controlled sub. (Drugs) 2nd Deg. | (A Fel) |
| 220.21 Crim. poss. controlled sub. (Drugs) 6th Deg. | (D Fel) |
| 220.34 Crim. sale controlled sub. (Drugs) 5th Deg. | (C Fel) |
| 220.37 Crim. sale controlled sub. 4th Deg. | (B Fel) |
| 220.39 Crim. sale controlled sub. 3rd Deg. | (A Fel) |
| 220.41 Crim. sale controlled sub. 2nd Deg. | (A Fel) |
| 220.43 Crim. sale controlled sub. 1st Deg. | (A Fel) |
| 220.45 Poss. hypodermic instrument | (A Misd) |
| 220.45 Crim. injection narcotic drug | (E Fel) |
| 220.50 Crim. use drug paraphernalia 2nd Deg. | (A Misd) |
| 220.55 Crim. use drug paraphernalia 1st Deg. | (D Fel) |
| 220.60 Crim. poss. precursors controlled sub. | (E Fel) |

### 225

| | |
|---|---|
| 225.05 Prom. Gambling 2nd Deg. | (A Misd) |
| 225.10 Prom. Gambling 1st Deg. | (E Fel) |
| 225.15 Poss. Gambling Rec. 2nd Deg. | (A Misd) |
| 225.20 Poss. Gambling Rec. 1st Deg. | (E Fel) |
| 225.30 Poss. Gambling Device | (A Misd) |

### 230

| | |
|---|---|
| 230.00 Prostitution | (B Misd) |
| 230.05 Patronizing Prost. | (Viol) |
| 230.20 Promoting Prost. 3rd | (A Misd) |
| 230.25 Promoting Prost. 2nd | (D Fel) |
| 230.30 Promoting Prost. 1st | (C Fel) |
| 230.40 Permitting Prost. | (B Misd) |

### 235

| | |
|---|---|
| 235.05 Obscenity 2nd Deg. | (A Misd) |
| 235.06 Obscenity 1st Deg. | (D Fel) |
| 235.21 Give Indecent Mat. to Minor | (E Fel) |

### 240

| | |
|---|---|
| 240.05 Riot 2nd Deg. | (A Misd) |
| 240.06 Riot 1st Deg. | (E Fel) |
| 240.08 Inciting to Riot | (B Misd) |
| 240.10 Unlawful Assembly | (B Misd) |
| 240.15 Criminal Anarchy | (E Fel) |
| 240.20 Disorderly Conduct | (Viol) |
| 240.21 Disrupt Religious Service | (A Misd) |
| 240.25 Harrasment | (Viol) |
| 240.30 Aggravated Harrasment | (A Misd) |
| 240.35 Loitering | (Viol) |
| 240.36 Loitering for Controlled Sub. | (B Misd) |
| 240.40 Public Intoxication | (Viol) |
| 240.45 Criminal Nuisance | (B Misd) |
| 240.50 Falsely Report an Incident | (B Misd) |
| 240.55 Falsely Report an Incident | (A Misd) |
| 240.60 Falsely Report an Incident | (E Fel) |

### 245

| | |
|---|---|
| 245.00 Public Lewdness | (B Misd) |
| 245.05 Offensive Exhibitions | (Viol) |

### 250

| | |
|---|---|
| 250.05 Eavesdropping | (E Fel) |
| 250.10 Poss. Eavesdropping Devices | (A Misd) |
| 250.15 Failure to Report Wiretap | (B Misd) |
| 250.20 Divulging Eavesdrop Order | (A Misd) |
| 250.25 Tampering Private Communication | (B Misd) |
| 250.30 Unlawful Obtaining Info. | (B Misd) |
| 250.35 Fail to Report Crim. Communication | (B Misd) |

### 255

| | |
|---|---|
| 255.00 Unlawful Solemnizing Marriage | (A Misd) |
| 255.05 Unlawful Issuing Dissolution Decree | (A Misd) |
| 255.10 Unlawful Procuring Marriage License | (A Misd) |
| 255.15 Bigamy | (E Fel) |
| 255.17 Adultery | (B Misd) |
| 255.25 Incest | (E Fel) |

### 260

| | |
|---|---|
| 260.00 Abandonment of Child | (E Fel) |
| 260.05 Non-Support of Child | (A Misd) |
| 260.10 Endangering Welfare of Child | (A Misd) |
| 260.20 Unlawfully Dealing with Child | (B Misd) |
| 260.25 Endangering Welfare of an Incompetent | (A Misd) |

### 265

| | |
|---|---|
| 265.01 Crim. Poss. Weapon 4th Deg. | (A Misd) |
| 265.02 Crim. Poss. Weapon 3rd Deg. | (D Fel) |
| 265.03 Crim. Poss. Weapon 2nd Deg. | (C Fel) |
| 265.04 Crim. Poss. Weapon 1st Deg. | (B Fel) |
| 265.05 Unlawful Poss. Weapon Person Under 16 Yrs. | (Juv. Del) |
| 265.10 Mfg. Transport, Deface Weapon | |
| 265.10-1 | (D Fel) or (A Misd) |
| 265.10-2 | (D Fel) or (A Misd) |
| 265.10-3 | (D Fel) |
| 265.10-4 | (A Misd) or (D Fel) |
| 265.10-5 | (A Misd) |
| 265.10-6 | (D Fel) |
| 265.10-7 | (A Misd) |
| 265.25 Certain Wounds to be Reported | (A Misd) |
| 265.35 Prohibited use of Weapons | (D Fel) or (E Fel) or (A Misd) |

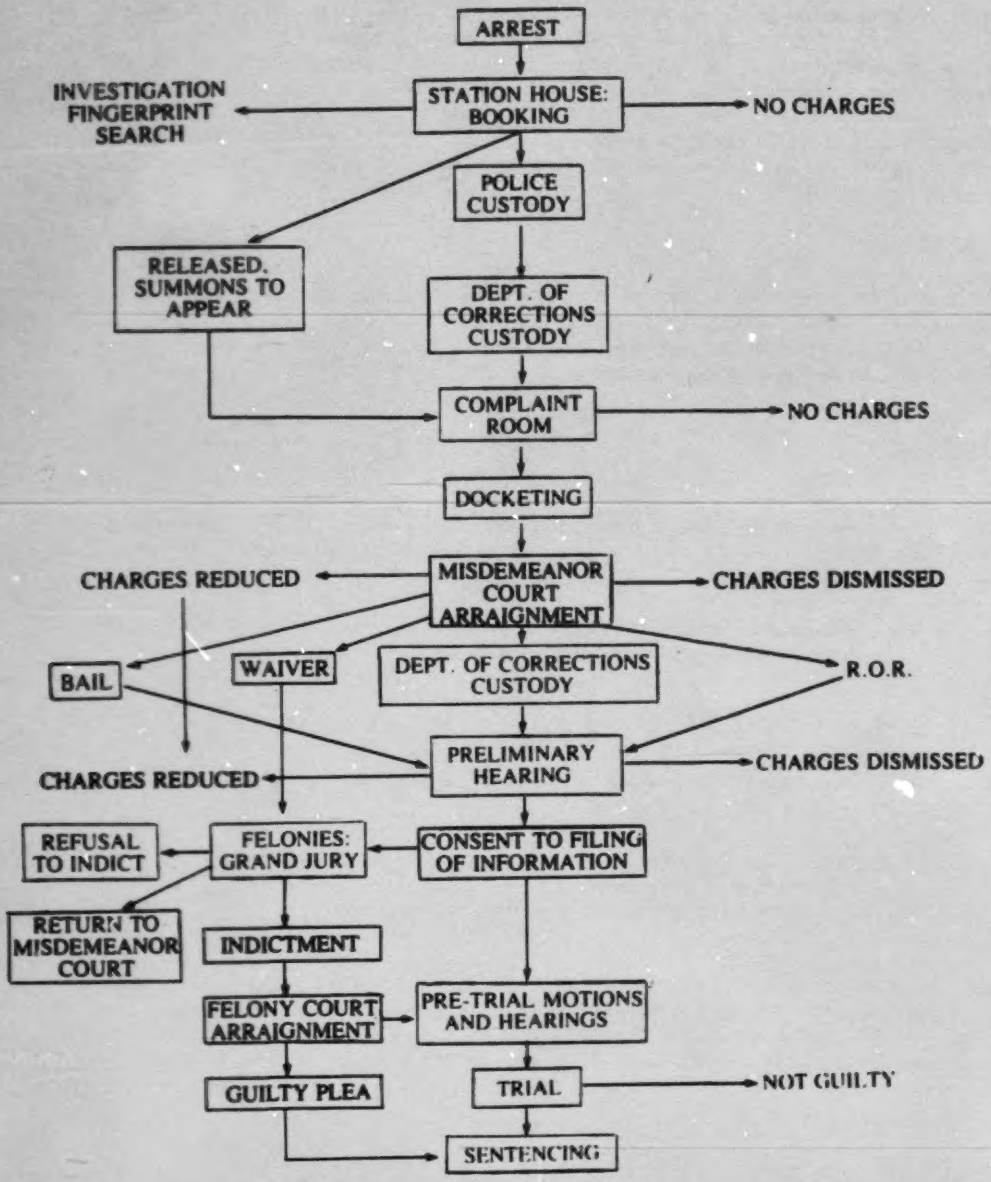
### 270

| | |
|---|---|
| 270.00 Fireworks | (B Misd) |
| 270.05 Poss. Noxious Material | (B Misd) |
| 270.10 Creating Hazard | (B Misd) |
| 270.15 Refusing to Yield Party Line | (B Misd) |

## III – THE CRIMINAL JUSTICE PROCESS

Criminal Case Processing Chart
Arrest
Booking
Complaint
Arraignment
Plea Bargaining
Preliminary Hearing
Grand Jury
Supreme Court
Trial
Youthful Offender
Jury Selection
Sentencing

# CRIMINAL CASE PROCESSING CHART


ARREST
STATION HOUSE: BOOKING
INVESTIGATION FINGERPRINT SEARCH
NO CHARGES
POLICE CUSTODY
RELEASED. SUMMONS TO APPEAR
DEPT. OF CORRECTIONS CUSTODY
COMPLAINT ROOM
NO CHARGES
DOCKETING
MISDEMEANOR COURT ARRAIGNMENT
CHARGES REDUCED
CHARGES DISMISSED
BAIL
WAIVER
DEPT. OF CORRECTIONS CUSTODY
R.O.R.
PRELIMINARY HEARING
CHARGES REDUCED
CHARGES DISMISSED
REFUSAL TO INDICT
FELONIES: GRAND JURY
CONSENT TO FILING OF INFORMATION
RETURN TO MISDEMEANOR COURT
INDICTMENT
FELONY COURT ARRAIGNMENT
PRE-TRIAL MOTIONS AND HEARINGS
GUILTY PLEA
TRIAL
NOT GUILTY
SENTENCING

## ARREST

Most people are familiar with the commonest form of arrest, the "on view" arrest. As the term implies, this occurs when a police officer sees someone committing a felony, misdemeanor, or offense and immediately apprehends the offender. New York law allows a police officer to make an arrest for a crime not committed in his or her sight and without a warrant for a felony whenever there are "reasonable grounds" to believe that the crime has been committed and that the defendant is the perpetrator. An arrest may be made at any time when there is a valid arrest warrant.

Another type of arrest is a "citizen's arrest." In that case, the arresting person must state the defendant's right to remain silent and report directly to the police for processing.

## BOOKING

Once an arrest has been made, the accused is brought to the police station and is booked. This is a clerical procedure which involves entering the charges into the police register and fingerprinting the accused. A date is then set for appearance at court for arraignment, within 24 hours, if the defendant is held, or the defendant may be given a summons to appear.

## COMPLAINT

Once an arrest has been made, a formal complaint is filed against the accused with a prosecutor in the local criminal court by the arresting officer and/or complaining witness, on behalf of the people of New York State. This verified written accusation must be obtained, along with the defendant's criminal history (called a NYSIIS report, or yellow sheet) before the defendant can be arraigned.

While the formal complaint is being sworn to, the defendant is often interviewed by the Probation Department, a report is made, and a docket number is assigned.

## ARRAIGNMENT

The accused is brought before a judge in the local criminal court for arraignment. There defendants are:

1-Informed of and then given a copy of the formal charges against them.
2-Informed of their right to counsel.
3-Bail conditions may be set for the release of the defendant

Bail is an amount of money set by the court to be paid by the defendant as a guarantee of his or her reappearance in court on a designated date. Once bail has been met, the defendant is released from legal custody. The amount assigned by the judge depends on the circumstances of the case. Cash may be deposited as bail in lieu of a bond. When, however, the defendant is unable to deposit the full amount of security required, bail may be arranged through a bondsman. The accused pays the bail bondsman a percentage (established by statute) of the amount of bail set by the judge. The bondsman agrees to pay the full amount should the defendant not appear at the next designated court appearance. The bondsman may also demand collateral, which is not controlled by state law. When the accused appears as required, the bondsman is no longer liable if the collateral is returned. The percentage stated above is kept as the fee.

In several places throughout New York State, groups of private citizens have organized to provide bail for indigent persons awaiting trial.

The defendant may also be released on his own recognizance (ROR), pending future action, or ordered detained in custody by the judge.

At this stage the judge may dismiss the case for lack of sufficient evidence to proceed. He or she may reduce a felony charge to a misdemeanor. If the charge is for a misdemeanor or less, the defendant may enter a plea at this time, or may obtain an adjournment until a future date.

If the arraignment is for a felony charge, the defendant never enters a plea in criminal court. He or she may request a hearing (called a peliminary hearing) to determine whether there is sufficient evidence to warrant holding the case for action by the Grand Jury, or the defendant may waive the right to a preliminary hearing.

## WHEN THE PLEA IS GUILTY – PLEA BARGAINING

If a defendant pleads guilty, before accepting this plea the court must inform him or her of (and determine that he or she understands):

1-The nature of the charge
2-The maximum and minimum penalties for the offense
3-The right to plead guilty or not guilty
4-The consequence of a guilty plea - forfeiture of a trial of any kind and waiver of the right to be confronted by witnesses against him or her.

The court must also determine whether there is a factual basis for the plea and whether the plea is voluntary. To accomplish this, the judge must directly question the defendant. The defendant may plead any time throughout the whole court process; in arraignment, preliminary hearing, various court appearances, or during the trial.

Often the plea is entered after a process of plea bargaining, an agreement between defense and prosecution to lessen the charge and/or recommended penalty in return for a plea of guilty. After a plea agreement is stated in court, the judge must confirm the terms by personally questioning the defendant to determine whether force, threats or promises outside of the agreement were used to obtain the plea.

A judge may not initiate plea negotiations, but he or she is not explicitly prohibited from participating in them once they have begun. The parties involved can either request the judge's concurrence in court prior to entering the plea or his or her previous agreement can be stated when the plea is entered. The judge then will either sentence the defendant or adjourn to a later date to wait for a pre-sentence investigation report by the Probation Department.

## PRELIMINARY HEARING

In New York City, a defendant charged with a misdemeanor is entitled to a preliminary hearing where the judge will determine if there is sufficient evidence to believe that the crime charged was committed and that the defendant was the one who committed it.

Preliminary hearings for felonies serve a different purpose than for misdemeanors. A hearing may be requested by a person charged with a felony at the time of arraignment in a local criminal court. The purpose is to determine if there is sufficient evidence to warrant submitting the case to the Grand Jury for consideration. A felony hearing can be waived by the defendant, or by-passed by the issuance of a Grand Jury indictment.

## MOTIONS AND APPLICATIONS

These are often procedural moves made by either the defense or prosecuting attorney that help to define and set the ground rules for the proceedings, such as a motion to postpone a hearing or trial date or to delay sentencing. These motions can be made in any stage: arraignment, examination, pleading, trial or sentence. Other motions, such as a motion to suppress evidence because it was seized by illegal methods, or to suppress a confession, are always made before a trial.

## GRAND JURY

From the preliminary hearing, a felony case may be sent to the Grand Jury. This panel, consisting of from 16-23 persons chosen on a countywide basis, is charged with the determination of whether there is sufficient evidence to prosecute. Enough evidence must indicate that both a felony was committed, and that it was committed by the accused.

If at least 12 jurors decide the case is strong enough to justify a trial, a "true bill" is returned. If it is found that the case should be dismissed, the Grand Jury returns a "no bill." If the Grand Jury determines that the evidence of a felony charge is inadequate, but enough to believe a misdemeanor has been committed, the charges can be reduced and sent back to the local criminal courts on information as a misdemeanor.

A Grand Jury has inquisitorial powers which allow it to make full investigations into cases. They may investigate on their own knowledge or upon information of any kind from any source deemed reliable. Evidence and testimony is presented by the prosecuting attorney against the accused. At the discretion of the Grand Jury, witnesses may also testify. The secrecy of proceedings before a Grand Jury is zealously guarded in order to encourage witnesses to give full disclosure of their knowledge about possible criminal action.

## SUPREME COURT

The first procedural step following indictment by the Grand Jury is arraignment in the court that tries felonies (a process identical to that in the criminal court). In that court, the defendant may now plead guilty to the felony charges in the indictment; or at the discretion of the prosecutor, to a lesser charge.

Should the defendant plead not guilty at the arraignment, he or she might next appear at a pre-trial conference. There the judge, prosecutor and defense counsel will attempt to settle the case by dismissal or plea of guilty. Failing such settlement, the case will be assigned to trial, where motions will be decided and trial will be held.

## TRIAL

Upon pleading not guilty, on arraignment, the defendant is often asked by the presiding judge in open court, whether he or she wants a trial by jury or trial by a judge (a bench trial). If the accused waives his or her right to a jury trial, the court has the burden to insure that the choice was made knowingly and voluntarily.

The purpose of the trial, be it bench or jury, is to examine the evidence, hear the testimony and determine the innocence or guilt of the accused.

All violations and misdemeanors with less than a possible six month maximum sentence are tried by the judge only. Persons eligible for Youthful Offender Treatment and who have no prior record of conviction, are given bench trials. Most trials in misdemeanor cases are such trials. These trials may sometimes be rather perfunctory, with the judge reaching a verdict after brief questioning of the defendant, complainant and witness (if any). However there are, of course, many bench trials in which defense and prosecuting attorney find thorough examination of witnesses necessary.

## YOUTHFUL OFFENDER

A person between 16 and 19 (at the time of the crime) who has committed a crime not punishable by death or life imprisonment, and who has not previously been convicted of a felony, may be treated as a Youthful Offender (Y.O.).

At the time of arraignment (if the circumstances warrant it) the judge must inform the defendant that he appears to be eligible for Y.O. Treatment, and explain the meaning of such treatment. The decision to grant Y.O. treatment is made now after a conviction by jury or judge.

Before sentencing, the court must request an investigation by the probation department, and on the basis of this, will decide whether to grant Y.O. treatment. If it is granted, the main features are:

a-the books will be closed and no criminal record will be entered against the defendant, and
b-the defendant may be sent to a special state institution rather than jail or the penitentiary

## JURY SELECTION

Once the panel of prospective jurors (selected randomly from the county's registered voters list) is ready, the judge should introduce the parties and their counsel and outline the nature of the case. The judge may then initiate the **voir dire examination**, during which he or she and the attorneys question the potential jurors to ascertain their qualifications and to assure that they will be free of biases or prejudices in reaching a verdict. Both the defense and prosecution have the right to three peremptory challenges (asking to bar a person from the jury panel) and one additional for each alternate juror, in misdemeanor trials. When all jurors are selected and approved, they are sworn in.

## SENTENCING

Upon conviction of a misdemeanor, after trial, or upon a plea of guilty, the defendant will be sentenced immediately unless a pre-sentence report (or application for a stay of execution) is requested. In this event, the case is adjourned to a later date for the sentencing. All felony convictions require a pre-sentence investigation. The defendant's final appearance in the trial court will be for the purpose of sentencing.

No person convicted for any misdemeanor, except minor driving infractions, can be sentenced until the judge has received and considered information as to the defendant's previous criminal record.

Pre-sentence reports are prepared by the probation department servicing the court. They are mandated in all cases where the possible sentence can exceed a period of 90 days incarceration, and up to the discretion of the judge for lesser charges, except when the defendant is sentenced to Probation or to a Reformatory (youth).

The reports provide the judge with information on the defendant's background, possible mitigating circumstances involved in the crime, chances for successful probation, and suggested programs of rehabilitation. The judge is under no legal obligation to follow the probation department's recommendation, however.

In New York State, as in many other states and in the federal system, a judge usually has a broad range of discretion in determining what type of sentence to impose on a person convicted of a crime.

Some alternatives to a sentence of incarceration are:

a-Unconditional discharge: open court – the offender may be released subject to no conditions.

b-Conditional discharge: the defendant is released on the promise to comply with court-imposed rules governing his conduct.

c-Fine: A monetary sentence may be given alone or with a reformatory or prison term.

d-Probation: The defendant is placed under the supervision of a probation officer to whom he must report periodically.

Some judges prefer probation and conditional discharge sentences because they feel they offer great hope for rehabilitation and are much less expensive than imprisonment. A defendant assigned probation or conditional discharge is released under conditions set by the judge: such as attending Alcoholics Anonymous or a drug program, or participating in a work program.

# IV – DEFENDANT'S RIGHTS

## THE ARRAIGNMENT

In New York, arraignment must occur without unnecessary delay; but before bringing the arrestee to court the police must fingerprint, photograph and do other preliminary police duties.

Where the arrest is not for a felony, without an arrest warrant, and the police are unable to bring the person before a court with reasonable promptness, they may serve an appearance summons.

In setting bail, great weight must be given to the evidence of reliability and the financial resources of the defendant. The defendant will be asked certain "bail facts" by the attorney or the judge: e.g. how long the defendant has lived in the community, their employment record, educational background, family ties and family responsibilities, reliability in the past, etc. These questions, together with the seriousness of the alleged crime and the defendant's prior criminal record, are the only factors that the court may consider in setting bail.

It is illegal for the court to set bail in such an extremely high amount that the court knows the defendant cannot post it, just to keep the defendant in jail.

## RIGHT TO COUNSEL

The accused has the right to have a lawyer with him or her at any stage of the criminal process from arrest through appeal, except inside a grand jury room. For those who cannot afford a lawyer, the state must furnish a lawyer free of charge.

Juveniles are also entitled to free counsel where there is a possibility that their freedom will be curtailed, even though the proceedings may be labeled as civil rather than criminal.

The right to counsel is not limited to the trial itself, it extends to every "critical stage" of the proceedings. When someone is being held for questioning by the police, they have the right to counsel, free if they cannot afford their own, and they must be informed of that right. The right attaches whether or not they are actually in custody, as long as they have somehow been deprived of their freedom in any way.

## RIGHT TO EXCLUDE EVIDENCE

When evidence is illegally obtained, it is not admissable at a trial. Procedurally, the lawyer must make a motion to exclude the evidence, and usually a pre-trial hearing is held on the motion.

Four common motions to exclude evidence, are:

1-To suppress physical evidence on the grounds that it was siezed during an illegal search by the police without a warrant.

2-To controvert a search warrant, on the grounds that the affidavit presented to obtain the warrant did not contain sufficient factual information to show probable cause to believe that a crime was or is being committed on certain premises.

3-To suppress confessions by or statements against, the defendant, on the grounds that they were illegally obtained. The grounds for illegality might be that the defendant acted involuntarily (due to pressure, tricks, threats, etc.) or the defendant was not properly warned, prior to being questioned, that he or she had a right to remain silent, that anything they said might be used in evidence against them and that they had a right to a lawyer (including a free one if they are indigent). The defendant must knowingly waive these rights to make his or her statement admissable.

4-To suppress evidence of an identification, where a lineup or showup was held in an illegal or suggestive manner.

## RIGHT TO A SPEEDY TRIAL

A defendant's right to a speedy trial is guaranteed by the 6th Amendment of the United States Constitution. According to New York statute, a person in custody must be brought to a court within two days after the arrest.

Under New York State's "ready rule", the prosecution must be ready to prosecute:

1-a felony within 6 months after arraignment
2-a misdemeanor within 90 days
3-a violation within 30 days

However, if the defendant is in custody, he or she must be released from jail if the prosecutor is not ready to proceed within:

1-90 days for a felony
2-30 days for a misdemeanor
3-15 days for a violation

A defendant may move to dismiss the charges for unreasonable delay if these standards have been violated.

# V – ROLE OF THE PROSECUTOR AND DEFENSE ATTORNEY

## PROSECUTOR

The chief function of the prosecutor is supposed to be to seek justice, not merely to convict. The District Attorney (D.A.), the prosecutor, or any other public servant who represents the people in a criminal action, is responsible for the prosecution of all crimes committed within that district and brought to his or her attention by police or private citizens.

A prosecuting attorney is elected in each county every four years. D.A.s may be in the most potentially influential positions of the court system, because of their pivotal position in the criminal justice system. They are the only officials who work with all other persons of the court system: the police, defense attorneys, probation officers, and others.

They are also the only attorneys allowed to be present when a case is heard by the Grand Jury.

## DEFENSE ATTORNEY

The defense attorney's major role is to represent the accused in criminal matters.

The Public Defender (as set forth by the 1965 legislature) is a defense attorney who represents, without fees, indigent persons (persons financially unable to obtain private counsel) at every stage of a criminal proceeding. The Legal Aid Society in some areas of New York State fulfills the role of the Public Defender for indigents in that county.

Lawyers have special responsibilities in the administration of justice and their admission to practice and subsequent conduct is carefully supervised.

A defender must represent his or her client zealously and within the bounds of the law — he or she is forbidden to make a defense unwarranted by law, to advise the client to do something illegal or to employ coercion. A defender is supposed to tell the client about trial risks and range of sentences and relay to them any prosecution offers.

Attorneys guilty of serious misconduct may be disbarred or temporarily suspended from practice by the Appellate Division. The defense attorney is guilty of misconduct when he or she participates in any activity with the intent to deceive the court or any party, or wilfully delays the clients suit with a view toward their own gain.

# VI – ADDITIONAL PERSONNEL CONCERNED WITH THE COURTS

## WITHIN THE COURTROOM

Court clerk – Assists the judge in record-keeping and other clerical duties.

Stenographer or Court Reporter – Takes verbatim record of court proceedings

Interpreter – (When necessary)

Court Officer – Only in New York City – They are distinguished by their blue and gold badge and shoulder patches, and are responsible for security in the court room. They are usually armed. They often assist the clerk of the court with clerical duties.

Sheriff – Outside New York City – They are responsible for security in the courtroom.

## STATEWIDE AGENCIES

Probation Department – This agency, found in each county of New York, is the social arm of the court. It is responsible for supervision and rehabilitation of persons placed on probation in lieu of imprisonment. This department conducts pre-sentence investigations used by judges when determining sentences.

Some counties are testing programs which vastly expand the role of the Probation Department. They are experimenting with giving them extensive pre-arraignment functions such as helping to determine if the accused should have to pay bail, the amount of bail, the eligibility for legal aid, etc. Some counties are trying expanded and coordinated use of all public and private social service organizations.

Department of Corrections – This agency is in charge of all persons in detention. They can be identified by the badge that says "Dept. of Corrections" and a pin in their collar saying "DC". This department also transports prisoners to and from court.

# VII – GLOSSARY

**ABATED:** A possible disposition of a case. The case is dismissed, usually because of the death of a party to the case.

**ACCESSORY:** A person who contributes to or aids in the commission of a crime. One who aids without being present at a crime.

**ACQUITTAL:** A verdict or finding of not guilty by a jury, or a judge in the case of a bench trial.

**ADJOURN:** To postpone the case to a later time.

**ADJOURNMENT IN CONTEMPLATION OF DISMISSAL (ACD):** An option not to prosecute in exchange for the fulfillment of certain conditions in cases involving a misdemeanor or less for a set period of time. If at the end of the time, the charges haven't been reinstated, and the conditions were met by the defendant, the case is automatically dismissed and the charge is erased from the record.

**ADJUDICATE:** To hear (or try) and determine a matter before the court.

**ADMISSIBLE EVIDENCE:** Evidence or testimony which is allowed by the judge to be introduced during the trial.

**AFFIDAVIT:** A written declaration or statement sworn to and affirmed.

**APPEAL:** To ask for review by a higher court of the bail, the sentence, a decision, a motion or the verdict handed down by a lower court.

**APPEARANCE TICKET OR SUMMONS:** A summons to appear in court on a particular date. Issued by a police officer after or in lieu of arrest.

**APPLICATIONS OR MOTIONS:** Procedural moves made by either attorney and submitted to the court. They help to define and set the ground rules for the proceedings of a particular case.

**ARRAIGNMENT:** The appearance before the court of a person charged with a crime; at this time he or she is advised of the charge(s) against them.

**ARSON:** The willful or malicious burning of, or setting fire to, a dwelling or other structure or personal property.

**ASSAULT:** An unjustified attack upon a person with an intent to injure or kill him or her.

**BAIL:** Security given a court in exchange for the release of a person in custody to assure their appearance later.

**BAIL BOND:** An obligation to pay the amount of bail if the person fails to appear in court when requested.

**BAR:** Refers to attorneys, counsellors & advocates of the court collectively.

**BENCH-WARRANT:** A direction by the court for the apprehension and arrest of a defendant or one in civil contempt or sought in a civil case.

**BRIDGE:** The table behind which the defendant stands when he or she comes before the judge. The bridgeman is the person who handles the routing of the documents between the judge, the clerk, and the attorneys.

**BURGLARY:** The entering of another's property without permission and with intent to commit a crime.

**CALENDAR:** The list of cases which are to be heard in a particular court.

**CASE LAW:** Non-statutory law, based on past decisions, opinions, interpretations, traditions.

**CHALLENGE:** The right of one party to object to a juror during the selection of the jury before the trial.

**CHANGE OF VENUE:** Transfer of a case for trial to another county or district, often because of claimed prejudicial publicity in the original district.

**CHARGE:** In criminal law, the accusation made against a person. In civil and criminal law, it also refers to the instructions on law that the court gives the jury at the end of the trial.

**COMMITMENT:** The order of a court to keep a person in custody in a penal or mental institution or hospital.

**COMMON LAW:** The vast collection of previous court decisions, customs, and usage.

**COMMUTATION:** A reduction of punishment or sentence after conviction.

**COMPLAINANT:** The victim of a crime who brings the facts to the attention of the authorities.

**COMPLAINT:** The document prepared by the plaintiff to set forth his or her claims.

**CONCURRENT & CONSECUTIVE SENTENCE:** A concurrent sentence is one in which the sentences for different offenses are served at the same time. A consecutive sentence is one in which one sentence is served after another one has been completed.

**CONDITIONAL DISCHARGE:** A sentence wherein the defendant is released on certain conditions set by the court.

**CONTINUANCE:** The postponement of a legal proceeding to another set date.

**COURT REPORTER:** A stenographer who records verbatim the proceedings in open court.

**CROSS EXAMINATION:** The questioning by a party or the attorney of the opponent's witnesses.

**DECREE:** A formal determination of the court.

**DETENTION:** The act of holding a person in custody: by police for questioning, by police while awaiting arraignment, or in jail while awaiting hearing or trial.

**DEFAULT:** Failure to appear and defend a lawsuit.

**DEFENSE ATTORNEY:** Attorney representing the accused.

**DEMURRER:** A defendant's answer to a charge against him or her. It admits the facts while denying legal responsibility.

**DEPOSITION:** A written statement made under oath.

**DISPOSITION:** The outcome of a case.

**DISTRICT ATTORNEY (D.A.) and ASSISTANT DISTRICT ATTORNEY (ADA):** The prosecutor on behalf of the people against the accused.

**DOCKET:** The formal record maintained by the clerk or the court, listing all cases to be heard in a particular part each day. It often contains the defendant's name, docket number, charge, date of arrest, and the outcome of the case.

**DUE PROCESS:** Regular & orderly administration of justice by a court in accordance with established rules.

**EXCEPTION:** An objection made to a court's ruling or its charge to the jury.

**EXHIBITS:** Documents or other tangible evidence.

**EXTORTION:** The taking of money or property by threat or force or under pretense of authority.

**EXTRADITION:** The process for return of a fugitive from one state to another which wants him or her for a criminal offense.

**FELONY:** A crime that may be punishable by imprisonment for more than one year or up to five years of probation supervision.

**GRAND JURY:** A group of citizens that examines evidence against a person suspected of a crime. If it decides they should be held for trial, the foreman writes a "true bill" on the indictment and signs it.

**HABEAS CORPUS:** A writ that requires a person having another in custody to produce that person before the court, to show that they have a right to custody.

**HEARSAY EVIDENCE:** Testimony that is brought out by the witness which is based not on his or her personal knowledge but rather on information he or she received from someone else. Generally it is not acceptable because the informant is not available for cross examination.

**INCARCERATION:** Imprisonment.

**INCOMPETENT:** Refers to a defendant who is unfit to stand trial because he or she is unable to understand the nature of the case, due to a mental or physical condition.

**IN CAMERA:** In private chambers, in secrecy, off the record.

**INDICTMENT:** The document prepared by the District Attorney and approved by the grand jury which charges a certain person with a certain crime.

**INFORMATION:** The written charge against a defendant filed by the District Attorney without grand jury action.

**INJUNCTION:** A court order prohibiting a certain named person from performing certain acts.

**JURISDICTION:** The geographical area and the type of case over which a court has authority.

**JUVENILE:** An accused person between the ages of 7 and 16. These cases are conducted in Family Court.

**LARCENY:** Taking property from another with intent to defraud and deprive that person of it. Petit larceny is the charge for amounts up to $250.00; grand larceny is the charge for amounts over that.

**MAGISTRATE:** An officer having the power to issue a warrant for arrest of a person charged with a crime. All judges are magistrates but not all magistrates are judges.

**MANSLAUGHTER:** The killing of one person by another although without intent to kill, or under the influence of extreme emotional disturbance.

**MISTRIAL:** A trial which is invalid because of some error in procedure, law, or fact.

**MOTION:** (See applications)

**NEGLIGENCE:** The failure to use the degree of care required to protect the rights and property of others.

**NOLO CONTENDERE:** "I do not wish to contest". A plea made by defendant; while not an admission of guilt, it means the defendant will not challenge the charges but will submit to the court imposed punishment.

**NONSUIT:** Dismissal of a lawsuit when the plaintiff abandons it or fails to prove his or her cause.

**NYSIIS:** New York State (Investigating Division) – Identification & Intelligence System. A state report of a person's previous record, obtained by a person's fingerprints.

**OBJECTION:** A protest made to record one party's disapproval of a question asked by their opponent.

**OFFENSE:** A violation of a local municipal regulation. The violation of any criminal ordinance or statute is commonly designated an offense.

**ORDINANCE:** A regulation established by a local government.

**PARDON:** An order releasing a person convicted of a crime from the punishment imposed by the court. Only the Governor has that power in the state.

**PAROLE:** A conditional release from custody.

**PERJURY:** The legal offense of testifying falsely and deliberately under oath.

**PLEA:** The reply of the defendant to the charges.

**PRELIMINARY HEARING:** To determine if there is sufficient evidence to warrant submitting a felony case to the grand jury; and in N.Y.C. to determine if there is sufficient evidence that a crime was committed and the defendant is the offender.

**PRE-SENTENCE INVESTIGATION:** A report on the defendant done by the Probation Department and submitted to the judge for consideration before sentencing.

**PRETRIAL CONFERENCE:** A meeting, after indictment, in which the judge, defense attorney, prosecutor & defendant try to conclude a case without a trial.

**PRIMA FACIE:** "On the face of it". Where sufficient evidence has been produced to obtain a conviction unless overcome by additional evidence.

**PRISONER'S PEN:** The detention center where the prisoners wait to be brought before the judge.

**PRIVILEGED COMMUNICATION:** A statement made to a person of trust (Minister, doctor, lawyer, wife, husband). It cannot be revealed without the originator's consent.

**PROBATION:** A sentence that allows a person found guilty of a crime to not be incarcerated, but to be under the supervision of a probation officer for a definite period of time.

**PUBLIC DEFENDER:** The attorney representing a defendant who can not afford private counsel.

**QUASH:** To make void, or do away with. Example: an indictment may be quashed if there is not enough evidence to hold a suspect for trial.

**RELEASE ON OWN RECOGNIZANCE:** (ROR) The defendant is released without bail, pending a trial or other court action.

**SEARCH WARRANT:** A written order issued by a judge directing a police officer to search a person or place for particular articles specified in the warrant.

**STATUTE:** Any law passed by a local, state or federal legislative body.

**STAY OF EXECUTION:** A temporary delay of the enforcement of sentence after the defendant has been found guilty.

**STIPULATION:** An agreement between the parties or their attorneys.

**SUBPOENA:** A court order requiring a witness to attend; it may also order him or her to bring books or records with them.

**SUMMONS:** The process by which a defendant is advised that there is a claim against him or her; it may also be a notification to a witness or a juror to appear in court.

**TESTIMONY:** Words heard from the witnesses in court (as distinguished from evidence derived from writings).

**TRANSCRIPTS:** An official record of proceedings in court recorded by the court stenographer.

**TRIAL:** A proceeding in court where the charge and facts in question are reviewed and the guilt or innocence of the defendant is determined.

**TRUE BILL:** The endorsement of an indictment when the Grand Jury finds it to be sustained by the evidence; also, the bill so endorsed.

**UNCONDITIONAL DISCHARGE:** A possible disposition of a case; the defendant is released without any court-imposed conditions.

**VENUE:** The county in which a prosecution or an action is brought to trial.

**WAIVE:** Voluntary surrender of a right, claim, or privilege.

**WITHDRAWAL OF PLEA:** The court at its discretion, may permit a plea believed to be made unknowingly and involuntarily, to be withdrawn and a plea of not guilty submitted.

**YOUTHFUL OFFENDER (YO):** A person who is 16-19 years of age who has not had a prior felony conviction and who is not currently being tried for an A felony. At any point in the proceedings the judge has the option of treating that individual as a "YO" rather than an adult in the eyes of the court. The individual's records are sealed, the jury dismissed and the individual is remanded to a special correctional facility if sentence is imposed.

## VIII – BIBLIOGRAPHY

*American Bar Association Project on Standards Relating to the Function of the Trial Judge;* American Bar Association; 1972

*Autobiography of Malcolm X;* Malcom X; N.Y.; Random House; 1967

*Busted; A Handbook for Lawyers and their Clients;* Oliver Rosengart; St. Martin's Press; N.Y. 1972

*The Challenge of Crime In a Free Society;* President's Commission on Law Enforcement and Administration of Justice; U.S. Government Printing Office; 1967

*Comparative Analysis of Standards and Goals of the National Advisory Commission on Criminal Justice with Standards for Criminal Justice of the American Bar Association;* American Bar Association; 1974

*Court Survival In the Litigation Explosion; Selected Readings in Court Congestion and Delay;* Glenn R. Winters; Editor; American Judicature Society; 1971

*Crime in America;* Ramsey Clark; Simon and Schuster; 1970

*Criminal Sentences; Law Without Order;* Marvin Frankel; Hill and Wang; N.Y.: 1973

*Gilbert's Criminal Law and Procedures;* James Zett and David Bertmutter; Matthew Bender; 1974

*The Honest Politician's Guide to Crime Control;* Morris Norval and Gordon Hawkins; University of Chicago Press; 1970

*Judicature;* The Journal of the American Judicature Society; 1155 East 60th Street, Chicago, Ill. 60637

*Judicial Conference Annual Report;* Judicial Conference; N.Y.

*Justice Denied; The Case For Reform of the Courts;* Leonard Downie; Praeger Publishers; N.Y.; 1973

*Kind and Unusual Punishment;* Jessica Mitford; N.Y.; 1973

*McKinney's Consolidated Laws of N.Y.;* West Publisher; St. Paul, Minn.

*No One Will Listen;* Lois G. Forer; John Day Comp.; N.Y.; 1970

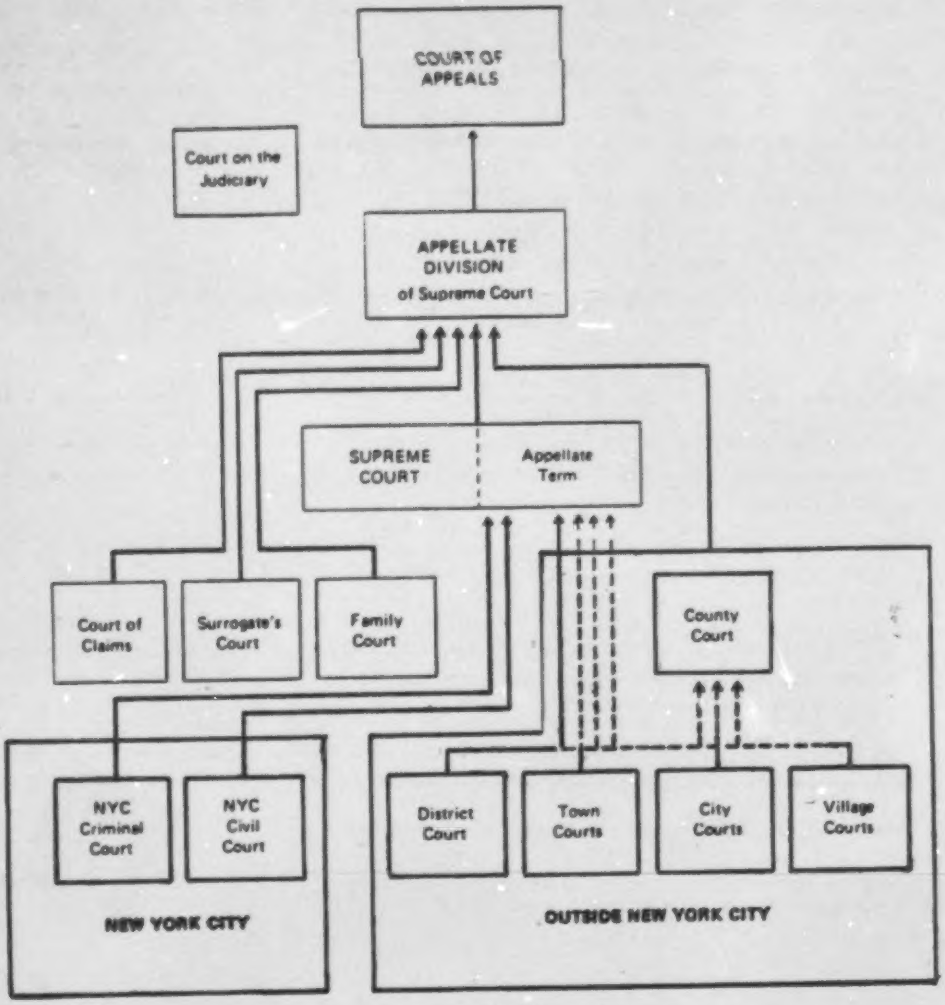
*Report on Courts;* National Advisory Commission on Criminal Justice Standards and Goals; U.S. Government Printing Office; 1973

*Soul on Ice;* Eldridge Cleaver; N.Y.; Random House; 1967

*Victimless Crimes;* Edwin Shure; Englewood Cliffs; N.J.; 1974

## APPENDIX A

## PRESENT NEW YORK STATE JUDICIAL SYSTEM


COURT OF APPEALS
Court on the Judiciary
APPELLATE DIVISION of Supreme Court
SUPREME COURT
Appellate Term
Court of Claims
Surrogate's Court
Family Court
County Court
NYC Criminal Court
NYC Civil Court
NEW YORK CITY
District Court
Town Courts
City Courts
Village Courts
OUTSIDE NEW YORK CITY

## APPENDIX B

### Instructions for Monitors*

**Specific instructions for filling out court watchers' report forms will be given by each local coordinator. The following advice is of a more general nature.**

Do your homework! Read the handbook and attend the training sessions. Ask questions about anything you do not understand. Go to court on your own at least twice during the training period.

Once the daily monitoring starts, make every effort to attend court on the day you are scheduled. If it is impossible for you to go that day, let your local coordinator know as far ahead of time as possible (at least 24 hours) so that she can find an alternate.

Get to court early — at **least** 15 minutes before it is scheduled to begin.

If any effort should be made to bar your attendance, do not argue: merely note the fact on your report form. (The same is true if you are denied any reasonable information or the opportunity to take notes.)

Introduce yourself to the judge, if possible, and to the clerk as an official observer from the Court Monitoring Project.

Sit where your local coordinator has suggested. If the judge asks you to sit somewhere else, don't argue.

Be as unobtrusive as possible in appearance and demeanor. NEVER INTERRUPT THE PROCEEDINGS. Always be courteous, no matter what the provocation.

REMAIN NEUTRAL. Do not betray your personal feelings by any facial expression or remark. If a judge or anyone else asks your opinion about anything that you have observed, **refrain from commenting.** Emphasize that you are merely collecting data and cannot speak for the Project. Refer the person to the local coordinator.

While you are observing, try to jot down all the data requested on the case observation forms. If you miss some of it, ask the clerk for the additional information during a recess or after adjournment.

Make no movies, photographs or tape recordings in the courtroom.

Note any special problems you encounter and any suggestions you wish to make on the back of your report form or report them to your local coordinator.

---

*Adapted from *How to Watch a Court,* by Michael N. Borish and Barbara Fenoglio, League of Women Voters of Illinois, 1975.

## APPENDIX D

Court Monitor's Handbook (Family Courts),
Fund for Modern Courts, New York

## Table of Contents

I Introduction

II The Project
  1. State Advisory Board
  2. Local Advisory Committees
  3. Project Staff

III The Fund for Modern Courts, Inc.

IV Family Court

V Procedures within the Family Court
  1. Police Custody
  2. Family Court Referral
    a. Probation Intake
    b. Preliminary Hearing
    c. Fact Finding Hearing
    d. Dispositional Hearing

VI Case Flow Chart (J.D. and PINS Cases)

VII Rights of Juveniles

VIII Legal Representation

IX Petitions

X Positions and Personnel in the Family Court in New York City

XI Positions and Personnel in the Family Court Outside New York City

XII Glossary

Appendix A Present New York State Judicial System (Chart)
Appendix B Present New York State Judicial System
Appendix C Bibliography
Appendix D Instructions for Monitors

# I. INTRODUCTION

## Brief History of the Family Court

The first juvenile court was established in the United States in Illinois in 1899. Until that time, children of all ages accused of crimes were sent to the courts and incarcerated with adults. Advocates of court reform endorsed a movement to separate child and adult proceedings, arguing that children should receive special treatment and that a separate children's court should be established to act in the best interests of the juvenile.

The new children's court was not supposed to be "punitive", it was to be "fatherly". This philosophy, known as parens patriae, advocated that a judge act as a surrogate parent rather than sit to determine guilt and punishment. The judge was to use the professional staff of the Court and other agencies to devise a program of rehabilitation for the child. The program was NOT designed to be proportional to any offense; rather it was to correct the deficiencies in the child's life which led to his/her behavior. The child's age and other social factors were taken into consideration, and social welfare programs and ancillary services were also provided for the child's best interests.

According to this philosophy, the juvenile court was never viewed as a criminal court. There was no adversary system as practiced in the criminal court. Hearings, records and proceedings would be confidential. The child would not be treated as a criminal and the focus of court proceedings would be on determining the problem and developing the best course of treatment for the child.

The terminology used in Family Court differs from that used in other courts. Plaintiffs, complainants or the people are "petitioners"; defendants are "respondents"; trials are "hearings" and sentences are "dispositional orders".

There are presently specialized juvenile courts or juvenile divisions of courts in almost all jurisdictions in the United States. The Family Court Act in New York State was established in 1962 as part of a revision of the State Court structure. "The Act unified jurisdiction over legal problems related to family difficulties which had previously been splintered. The act established a statewide court with jurisdiction over all aspects of family life except divorce, separation and annulment".[1] The latter were left with the Supreme Court.

---

[1] Besharov, Douglas J. McKinney's Consolidated Laws: Book 29A-Judiciary Part, Family Court Act p. 4.

The Family Court deals with the problems of children and families in crisis. The Court may decide whether an abused or neglected child should be removed from his/her parents and placed in foster care, whether a youth who is "out of control" should be sent to an institution, and whether a parent should be banned from the home to protect family members. The Court also has jurisdiction over several other matters including custody of children, the failure of individuals to support their families, and determination of paternity.

At the time of the establishment of the Family Court, supporters of the system viewed it as a major accomplishment; however, despite their hopes, most observers now feel that the Court does not fulfill its original purpose.

"From adjudication to disposition, the Family Court Judge is dependent upon the cooperation and assistance of other municipal, private and social agencies, often understaffed, and ill-equipped to meet even the minimum standards and demands of this court and contributing heavily to its inability to become the social forum it was supposed to be".[2]

In addition, almost 10 years ago, the 1967 President's Commission on Law Enforcement and Administration of Justice, speaking of children's courts generally, stated:

"The great hopes originally held for the juvenile court have not been fulfilled. It has not succeeded in rehabilitating delinquent youths, in reducing or even stemming the well of juvenile offenders".[3]

With growing populations and current public concern regarding the incidence of juvenile crime, budget cutbacks and large caseloads, the structure, philosophy, and function of the Family Court is currently being re-evaluated.

---

[2] IBID p. 5.

[3] Burkhardt, Cathryn W., The Child and the Law, Public Affairs Committee p. 16.

## II THE PROJECT

The Fund for Modern Courts, Inc. is sponsoring the Family Court Monitoring Project. Funded by the Division of Criminal Justice Services and the New York Community Trust, it is designed as the second half of a three-year citizen effort to investigate the system of justice in New York State.

During the first 18 months of the study, over 300 trained citizen volunteers observed and assessed criminal court activity in selected courts in New York State (Poughkeepsie, Glens Falls, Rochester, New York City). The project focused on reasons for adjournment and delay, physical conditions in the court, citizen access to the courts, general court procedures and court utilization.

The research design employed during the first 18 months will be used in the Family Court study with some modification to apply to the unique structure and procedure of this court. The research goals include but are not limited to:

1-collecting and evaluating data affecting the quality of juvenile justice.
2-providing specific recommendations for upgrading the current system.
3-educating citizens about the Family Court in their local areas.

Recommendations will be geared to suggest improvements in:

1-physical conditions.
2-the incidence of adjournment and delay.
3-administrative procedures.
4-treatment of persons in the court and other qualitative issues.

During the course of the project we hope to initiate and maintain a constructive and continuing dialogue between the local judiciary and the citizen monitors.

### 1. State Advisory Board

The State Advisory Board is the policy-making body for the entire project. Composed of persons with knowledge and expertise in juvenile justice and other court matters, the Board meets regularly to assist in the preparation of training materials and report forms for monitors and to cooperate in the planning and carrying out of all phases of the monitoring project.

### Family Court Monitoring State Advisory Board

Nathaniel Caldwell - Program Specialist, National Institute of Corrections.

Richard Coyne - Vice President and Chairperson of Task Force on Courts, Economic Development Council of New York City, Inc.

David Ellis - Former Executive Director, Fund for Modern Courts, Inc.

Pauline Feingold - Program Developer, Urban Coalition.

Hon. Simeon Golar - Former Family Court Judge, currently in private practice.

Donald Grajales - Director, Region II, Legal Services Corp.

Robert MacCrate - Former President, New York State Bar Association, currently in private practice.

Archibald R. Murray - Executive Director, Attorney-in-Chief, Legal Aid Society.

Flora Rothman - Chairperson, Task Force on Juvenile Justice, National Council of Jewish Women.

Hon. Caroline K. Simon - Former Judge Court of Claims, currently in private practice.

### 2. Local Advisory Committees

Within guidelines set by the State Advisory Board, local advisory committees established in each project area will:

1-recruit and arrange training for monitors.
2-select the courts or parts to be watched.
3-solicit the cooperation of local judiciary and court personnel.
4-hold regular meetings to solve problems and evaluate progress.

### 3. Project Staff

The project is being directed on a Statewide level by Sondra Solomon.

Project coordinators in the local areas are:

Orange, Ulster, Sullivan - John Hicks
Westchester - Jean Fink
New York City - Diana Stewart
Nassau - Joan Hollander
Erie - Joan Bozer

Consultants - Charles Brock
- Robert Johnson
- Robert Kaplan

Administrative Assistant - Bernice Stone

## III THE FUND FOR MODERN COURTS, INC.

The Fund for Modern Courts, Inc. is a statewide, non-profit, non-partisan, citizens organization concerned with the quality and administration of justice in New York State. Composed of lay people and lawyers, the Fund works with a 38-member Coalition of Organizations for Court Reform to educate the public about the need for improving the State's court system.

Established in 1955, the Fund continually studies the problems facing the State's judicial system and initiates educational programs to teach citizens about how the courts operate.

The Fund is concerned with the selection of judges, judicial conduct, and the structure, administration and financing of the court system. In addition, it is sponsoring a series of citizens conferences throughout the state which will focus on specific issues concerning the courts and court reform.

Recognizing that broad public understanding is a prerequisite for improving the system, the Fund offers a variety of educational programs to inform citizens about their courts and how they operate.

The Executive Director of the Fund is Fern Schair.

## IV FAMILY COURT

The Family Court of New York State is a specialized court that has exclusive jurisdiction over cases involving children and families, including:

- -adoption
- -abuse and neglect
- -support, including reciprocal petitions filed under the Federal Uniform Support of Dependents Law (USDL)
- -paternity and support of children born out of wedlock
- -termination of custody by reason of permanent neglect
- -juvenile delinquency
- -persons in need of supervision (PINS)
- -family offenses

In addition, the court has jurisdiction over matters involving physically handicapped and mentally defective or retarded children, custody and visitation rights, consent to marriage of underage persons, cases involving children who are material witnesses in other courts and guardianship decrees.

For this phase of the project, we will be involved in observing the processing of delinquency and PINS petitions.

## V PROCEDURES WITHIN THE FAMILY COURT

1-Police Custody
2-Family Court Referral
    a-Probation Intake
    b-Preliminary Hearing
    c-Fact Finding Hearing
    d-Dispositional Hearing

1-Police Custody

The Penal Code details what behavior constitutes a crime when committed by an adult. The Family Court Act covers behavior of those under 16 which would be crimes if engaged in by an adult. It authorizes the police to take juveniles into custody but never refers to the word arrest. A juvenile may be taken into custody and questioned when that child is suspected of being a runaway or of violating the penal code. The juvenile can be taken into custody with or without a warrant (on the basis of reasonable cause).

When a juvenile is taken into police custody and brought to the police station several things can happen. The juvenile can be:

a-released with a reprimand.
b-referred to a youth bureau within the police department or other police program.
c-both a and b.
*d-juvenile report issued.
e-in New York City, in the case of serious offenses (felonies and some serious misdemeanors) the youth must either be released at the precinct or referred to the Family Court. The police may not attempt to resolve the matter themselves. In other counties the Police Juvenile Aid Bureau actively pursues a program to resolve the matter by working with parents and referral to agencies.

*The juvenile report is the counterpart of an adult arrest record with one significant difference. The report contains a record of penal code violations but is never considered to be a public document or equivalent to an arrest record.

2-Family Court Referral

a-Probation Intake

Prior to a Family Court Intake Hearing the petitioner, respondent, family members, and/or police officer meet with a probation officer to decide if Family Court action is absolutely necessary. This process is completely voluntary. If the petitioner insists the matter must go to court or if the respondent refuses to go through Intake, a petition is drawn. If the probation officer decides this is the best course and if everyone agrees, the juvenile is diverted from the Family Court and is either sent home, supervised for a period up to 120 days by the probation department, or referred to a community agency. The case is then said to have been "adjusted." Under new Family Court rules specific criteria must be followed by the probation office in the adjustment process. The probation officer must state in writing, for court review, the reason why the case was adjusted. The probation officer cannot adjust a "designated felony case" (see petitions) without written court approval.

b-Preliminary Hearing

If the decision is made to refer the case to Family Court an Intake Hearing is usually scheduled. At the Intake Hearing the Assistant Corporation Counsel or County Attorney files a petition alleging the juvenile is a PINS or Juvenile Delinquent. At this time the juvenile is advised of his/her rights. If there is an admission of guilt on the part of the juvenile, an order of adjudication is drawn and a referral to probation or other agency is made for an investigative report prior to disposition. A dispositional hearing date is set.

If there is a denial of the allegations on the part of the juvenile, the judge must decide whether to dismiss the petition or to place the juvenile pending further court action. The judge may send the youth to a detention center (secure or non-secure), to a temporary care facility (public or private institution or private home), or release the juvenile in the custody of his/her parents. A fact-finding hearing is scheduled and investigations if necessary are ordered. If there are motions by attorneys, hearings on those motions may also be scheduled at this time.

c-Fact-Finding Hearing

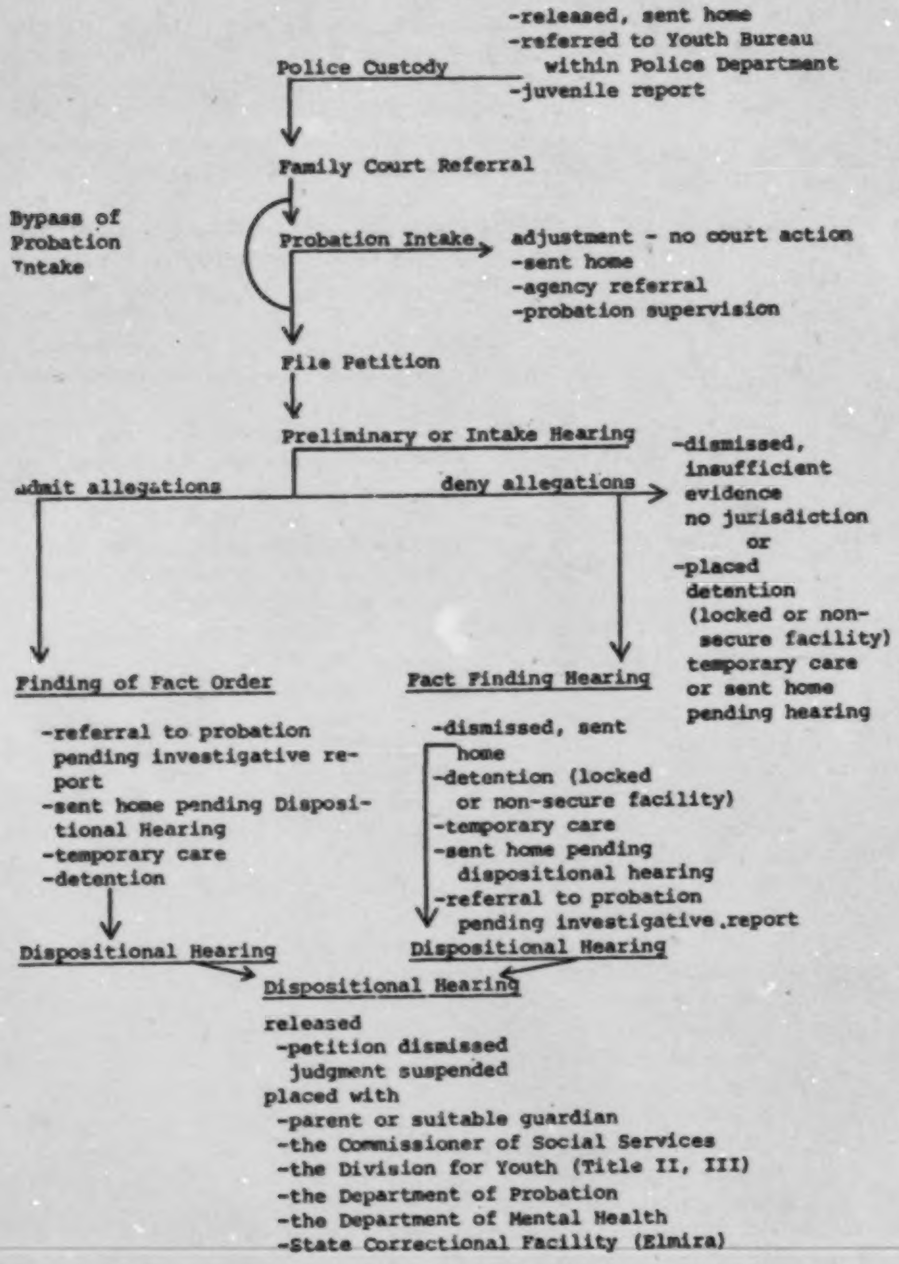
At the fact-finding hearing the judge listens to the evidence and decides whether or not the allegations have been proved. At that hearing the judge can either dismiss the petition, in which case the child is sent home, or adjudicate the child a PINS or Juvenile Delinquent. A dispositional hearing is set and the court can order reports from the Department of Probation and/or Mental Health. (Investigation and Report).

d-Dispositional Hearing

At this hearing the judge decides "what to do" with the juvenile. The juvenile can be:

1-released - petition dismissed
2-released - judgment suspended
3-placed in his/her own home
4-placed with
  -a suitable relative
  -the Commissioner of Social Services
  -the Division for Youth (DFY)
  -an authorized agency (including a Mental Health Facility)
   (N.B. coincident with any placement the juvenile may be required to participate in a drug or alcohol rehabilitation program or other similar rehabilitative program.)
5-placed on probation requiring that he/she attend certain programs or refrain from or practice certain behavior
6-placed in a State Training School
   (N.B. State Training Schools are secure facilities, called DFY Title III facilities. Other DFY facilities which are non-secure institutions are known as Title II facilities.)
7-committed to a State Correctional Facility (Elmira) for serious felonies, i.e., homicide

## VI CASE FLOW CHART (PINS and J.D. Cases)


Police Custody
-released, sent home
-referred to Youth Bureau within Police Department
-juvenile report
Family Court Referral
Bypass of Probation Intake
Probation Intake
adjustment - no court action
-sent home
-agency referral
-probation supervision
File Petition
Preliminary or Intake Hearing
admit allegations
deny allegations
-dismissed, insufficient evidence no jurisdiction
or
-placed detention (locked or non-secure facility) temporary care or sent home pending hearing
Finding of Fact Order
-referral to probation pending investigative report
-sent home pending Dispositional Hearing
-temporary care
-detention
Fact Finding Hearing
-dismissed, sent home
-detention (locked or non-secure facility)
-temporary care
-sent home pending dispositional hearing
-referral to probation pending investigative report
Dispositional Hearing
Dispositional Hearing
Dispositional Hearing
released
-petition dismissed judgment suspended
placed with
-parent or suitable guardian
-the Commissioner of Social Services
-the Division for Youth (Title II, III)
-the Department of Probation
-the Department of Mental Health
-State Correctional Facility (Elmira)

## VII RIGHTS OF JUVENILES

As cited in the Introduction, the parens patriae theory assumed that a benevolent judge acting "in the best interests of the child was not depriving the child of any rights and required no "due process". In framing the Family Court Act of 1962, the legislative committee reaffirmed the non-criminal nature of juvenile proceedings, but acted to provide "due process" for juveniles.

Subsequent to the establishment of the Family Court Act, several appellate decisions reinforced the view of the New York legislators. In 1967, the Supreme Court of the United States held that an accused juvenile has at least four constitutional rights:

1-the right to notice of the charges and time to prepare for trial.
2-the right to counsel.
3-the right to confront and cross-examine witnesses.
4-the right to remain silent.

In 1970, the court ruled that the provision for the finding of fact based upon a "preponderance of the evidence" was unconstitutional and that charges against juveniles must be proved beyond a reasonable doubt. Every day that passes sees more of the norms and procedures of criminal practice being adopted in the Family Court.

In keeping with the Legislature's desire to avoid placing the stigma of criminal labels on children, the records and proceedings of the Family Court are held confidential. Names of juveniles are not published and decisions are not made part of a permanent record.

To protect the confidentiality of the litigants all those individuals who observe Family Court activity are usually reminded that no details of the proceedings are to be discussed or any of the litigants' names divulged.

The Family Court Act itself contains a separate paragraph concerning confidentiality for every petition type. Each of these sections is worded somewhat differently from the others. This has, in the past, caused much confusion over exactly what the law did or did not say.

The Administrative Board for all the courts of the state has now adopted a rule which clarifies the question considerably. Briefly, the guidelines are these:

a-Family Court records may not be seen except by persons with a legitimate purpose which has been verified.

b-Citizens, including representatives of news media may be admitted to the proceedings, as space permits, for a legitimate purpose. Observers may be excluded if there is a reason (e.g. very sensitive or embarrassing testimony).

c-The names of the participants may not be published or divulged in any way.

The value and effectiveness of a monitor and the success of the very concept of citizen monitoring depend on the acceptance of the citizen as an impartial, serious observer. In addition, one can be prosecuted for violation of the laws respecting confidentiality.

## VIII LEGAL REPRESENTATION

Section 249 of the Family Court Act directs that the court "shall appoint a law guardian to represent children if independent legal representation is not available to the child.' This primarily covers children who are involved in juvenile delinquency, PINS or child protective (neglect or abuse) proceedings. The ability of the child to obtain counsel of his or her own choice may or may not have anything to do with the ability of his/her parents to pay. The courts have found that the interests of parents and their children do not always coincide and, frequently, different attorneys must represent the parent and the child. In practice, therefore, the court will normally appoint a law guardian, who is replaced when a private attorney appears.

There are, generally speaking, two methods of obtaining attorneys for appointment as law guardians:

a-A contract is signed with a corporation, usually the Legal Aid Society, to provide the service. The corporation employs attorneys who work fulltime in the Family Court and serve any children needing representation.

b-The local Bar Association asks its members to serve as law guardians or panel attorneys on a by-request basis either as a public service or to gain courtroom experience. A list of names is submitted to the Appellate Division of the Supreme Court for approval. The approved list is given to the Family Court and appointments are made from it. Attorneys are compensated for their work by the State at the rate (presently) of $10/hr. for work outside the courtroom and $15/hr. for time spent in court. The average fee per case is around $65.

In New York City almost all law guardians are provided by the Legal Aid Society by contract. In cases with multiple respondents where the interests of all are not identical, the same office cannot represent more than one. In that instance, the second method is used to appoint attorneys for the additional respondents. In the City these attorneys are called 18(b) attorneys (referring to Section 18(b) of the County Law which provides authority for this).

Outside New York City most law guardians are appointed from a list as described above. They are commonly referred to as "panel attorneys" or simply "law guardians". The term "18-b attorney" is not in general use outside New York City.

There is extensive controversy concerning the role of the law guardian. Some people believe that law guardians must fight for a client as in a fully adversarial proceeding, i.e., to attempt to "get him off" regardless of whether or not they are themselves convinced that may be precisely the worst thing for the child.

Other people believe that the law guardian should safeguard the rights of the child while at the same time work for his or her "best interests" even if the transfer of care and custody to some sort of institution is involved.

The New York Court of Appeals in 1969 said that attorneys should not be cast in the role of social advisors to the court but should pursue their role of adversary. The New York Legislature amended that Act in 1970 by saying that the law guardian was to "protect the child's interests and help him/her express his/her wishes to the court". The controversy remains.

Volunteers observing in the courts of New York City will find law guardians acting almost exclusively in the adversarial role. Outside the City, observers find a great deal of variety, ranging from purely adversarial to paternalistic.

From time to time, observers may also witness the appointment of a guardian ad litem. This is a person who is appointed to safeguard the interests of the child other than with regard to the conduct of the trial. The most extensive use of the guardian ad litem is in other courts; e.g., in a lawsuit of some sort where the possessions of a child may be liable to be taken away without his/her full understanding.

In Family Court, the parent or guardian of an accused juvenile sometimes fails to appear. In that case it may be necessary for the judge to appoint a guardian ad litem to stand in place of the parents.

## IX PETITIONS

Petitions are designated by number, year and type. Following are the letter prefixes used by the court to designate petitions. In some courts the name of the petition will not be announced; instead the letter associated with the petition will be read or will appear on the calendar.

A-Adoptions
B-Permanent Neglect
D-Delinquency
F-Support
G-Guardianship
H-Handicapped, (Education of)
I-Informal
J-Public Health
K-Foster Care Review
L-Voluntary Placement Approval
M-Consent to Marry
N-Neglect and Abuse (Child Protective)
O-Family Offense
P-Paternity
Q-Mentally Defective
R-Referred from Supreme Court
S-Persons in Need of Supervision (PINS)
U-Uniform Support of Dependents Law (USDL)
V-Custody
W-Material Witness

A-Adoption - the legal proceeding that results in an adult taking another person into the family and acquiring the responsibilities of a parent.

B-Permanent Neglect - to determine whether the interests of the child require that the parent's right to custody be terminated permanently.

D-Juvenile Delinquency - proceedings against those alleged to be juvenile delinquents. A juvenile delinquent is a person under age 16 and over 7 who commits an act which if committed by an adult, would constitute a crime.

F-Support - to compel a person legally charged with support of a wife, child or relative to do so.

G-Guardianship - the proceeding to establish the legal guardianship of a minor.

H-Handicapped (Education of) - provides the physically handicapped child with funds for special education and training.

K-Foster Care Review - to justify continuing a child in Foster Care showing that he/she can neither be freed for adoption nor returned to the parents.

L-Voluntary Placement Approval - to secure Family Court approval of a voluntary placement in foster care by a child's parents.

M-Marriage Application - considers and approves consent to marry where applicant for marriage is a female over the age of 14 and under the age of 16.

N-Abuse and Neglect (Child Protective) - to help children who suffer from injury or mistreatment and safeguard their physical, mental and emotional well being.

O-Family Offense - to give help to wives and husbands and other members of the family who suffer from assaults by members of the same family.

P-Paternity (also called filiation) - procedure to establish paternity and once established to order support for wife and children.

Q-Mentally Defective - a proceeding to compel the provision of training and care for a person under 21 years with defective mental development.

R-Referral - proceeding resulting from divorce action in which Supreme Court grants a divorce but refers the issues of support, custody, and/or visitation to Family Court.

S-Person in Need of Supervision (PINS) - proceeding against a child alleged to be consistently disobedient, out of control, incorrigible, etc. These acts if committed by an adult would not constitute crimes. (status offenses)

U-USDL - a support proceeding to compel a person charged with the support of a dependent to do so. The USDL proceeding applies only to spouses living out of state.

V-Custody and Visitation - to provide for preservation or enforcement of parent's right to have visitation and/or permanent parental responsibilities and privileges.

W-Material Witness - a procedure to place in custody a person under 16 who is a material witness in a case.

Designated Felonies - The 1976 Legislative session produced the Juvenile Justice Reform Act of 1976. There are many changes to the law contained in this package.

All designated felonies are serious crimes. They have been divided into "Designated Class A Felonies" and "Designated Class B Felonies" according to the length of the placement which is associated with each category.

Courts are directed by law to give priority to Designated Felony matters. In New York City this takes the form of a special Part for these matters.

Class "A" Felony - Under the new statute, if a judge finds that an "A" Felony was committed and that restrictive placement is appropriate, then the placement must be with DFY for a period of 5 years. Of this period, the first 12 months must be in a secure facility, the second 12 months in a non-secure facility, and the remainder may be at the parental home. DFY may not reduce these periods.

Class "B" Felony - If the judge finds that a "B" Felony has been committed and restrictive placement is necessary, the placement is for 3 years. The first 6 to 12 months must be in a secure facility, the second 6 to 12 months in a non-secure facility, and the remainder may be at the parental home.

During periods of residence at the parental home, the child is supervised by DFY and can be returned by that agency to a secure or non-secure residence facility if circumstances warrant.

Prior to this legislation, placements were for 18 months but could be extended for additonal periods on petition by the agency (3 years in certain instances), but DFY could decide that the entire period should be spent at home without consulting the court. The fact of a shortage of space led to DFY's sending juvenile offenders back to the parental home after spending only a few months in a facility. Public outcry against this action was a factor in the passage of the new legislation.

# X POSITIONS AND PERSONNEL IN THE FAMILY COURT IN NEW YORK CITY

Administrative Judge - The Administrative Judge of the Family Court in New York City is Hon. Joseph B. Williams.

Assistant Administrative Judge - There is an Assistant Administrative Judge for the Family Court in each county. That judge has overall responsibility for the operation of the Court in that county.

Judge - The judge is in charge of the courtroom part. In addition to hearing cases, the judge must read whatever depositions, petitions, etc. are presented in connection with the case and make decisions on placements and "sentences".

Clerk of the Court - The clerk of the court is responsible for all non-judicial functions in a particular county (personnel, reports, inter-agency contacts, public contacts).

Clerk of the Part - The clerk of the Part "manages the Part" under the supervision of the judge. The clerk is responsible for the functioning and supervision of the non-judicial personnel. In addition, the clerk will confirm:

1-presence of all parties.
2-whether the case is ready to proceed to a fact finding or dispositional hearing.
3-a date for the next appearance if the case is to be adjourned.

Law Guardian - A law guardian is assigned by the judge to represent a juvenile. If private counsel is retained, the court appointed attorney is replaced.

Assistant Corporation Counsel - The Assistant Corporation Counsel works for the city and acts as a prosecutor in delinquency petitions. He/she represents the petitioner in USDL petitions, represents the petitioner in paternity and support matters, represents the city in handicap petitions and represents the petitioner in some PINS petitions.

Court Liaison Officer - The Court Liaison Officer provides abstracts of hearings for the Probation Department records and forwards judges instructions to agencies. He/she is a Probation Officer.

Uniformed Court Officer - If there is adequate personnel the functions are split; one court officer maintains decorum and security, and the "bridgeman" calls the calendar and maintains sequence and order of business.

Court Reporter - The court reporter makes a stenotype record (official) of all proceedings, marks and stamps all exhibits and evidence offered to the court and prepares transcripts of proceedings.

## XI PERSONNEL AND THEIR ROLES (OUTSIDE NEW YORK CITY)

Administrative Judge - There is an Administrative Judge for the Family Court in each county. That judge has overall responsibility for the operation of the Court in the county.

Judge - The judge is in charge of the court. In addition to hearing cases, the judge must read whatever depositions, petitions, etc. are presented in connection with the case.

Law Guardian - A law guardian is assigned by the judge to represent the juvenile. If private counsel is retained, the court-appointed attorney is replaced.

The Clerk - Verifies that case files and reports are placed before the judge, writes down for the record what the judge decides, sets new court dates, prepares referral forms for Probation and other agencies, and keeps track of open dates in case a date for another hearing is needed. The clerk may leave the courtroom to get additional files or perform other necessary errands.

County Attorney - Family Court is technically a civil court. Therefore, the county's civil lawyer (the County Attorney) rather than its criminal lawyer (the District Attorney) presents the "people's case" in Family Court. The Juvenile Justice legislation of 1976, recognizing the "quasi-criminal" nature of delinquency proceedings, has authorized the District Attorney to "lend" one of his assistants to the County Attorney to help with delinquency cases.

Clerical Staff - Counties with fulltime Family Courts employ several persons who function primarily outside the courtroom. They perform such tasks as: preparing petitions; setting up case files; sending out appearance notices; typing and mailing all of the various orders, warrants, and other papers which result from the judges' orders; and maintaining required statistical records. They may occasionally enter to confer with the judge or clerk during breaks in the proceedings.

Court Reporter - Makes a verbatim record of everything that goes on in the courtroom. May use shorthand or a stenotype machine for this purpose. May sit anywhere, usually close to the judge.

Court Attendant - Calls parties from the waiting area and escorts them into the courtroom; announces their names to the judge. May administer oaths when required. May wear a uniform. (Found only in larger courts.)

## XII GLOSSARY

**Adjourn** - An order to postpone case activity to another day.

**Adjournment in contemplation of dismissal (ACD)** - A dismissal of the petition to take effect at some time in the future, usually 6 months, if the same or other misbehavior does not occur in the interim.

**Adjudicate** - To hear and determine the truth of the facts alleged in the petition.

**Admission, denial** - At the fact-finding hearing the judge will ask if the respondent admits or denies. That refers to whether the individual admits or denies committing the allegations in the petition.

**Arrest** - In some proceedings in the Family Court a juvenile may be taken into custody and detained in an appropriate facility when his or her parents are unknown or cannot be reached. The Family Court Act authorizes the taking of juveniles into custody but does not use the word arrest. The Family Court Act refers instead to "custody and detention."

**Crime** - A crime is an offense punishable by more than 15 days in jail. (Criminal Court Term)

**Criminal/Supreme Court** - A Criminal/Supreme Court is one in which persons over 16 accused of violations, misdemeanors and felonies are informed of their rights, tried and sentenced.

**Delay** - A postponement of case proceedings to a later part of the same session or day.

**Designated felony act** - An act committed by a person fourteen or fifteen years of age which, if done by an adult, would be a Class A or Class B felony (a) defined in sections 125.27 (murder in the first degree); 125.25 (murder in the second degree); 135.25 (kidnapping in the first degree); or 150.20 (arson in the first degree) of the penal law; (b) defined in sections 120.10 (assault in the first degree); 125.20 (manslaughter in the first degree); 130.35 (rape in the first degree); 130.50 (sodomy in the first degree); 135.20 (kidnapping in the second degree), but only where the abduction involved the use or threat of use of deadly physical force; 150.15 (arson in the second degree); or 160.15 (robbery in the first degree) of the penal law; or (c) defined in the penal law as an attempt to commit murder in the first or second degree or kidnapping in the first degree.

Detention - The temporary care and maintenance away from their own homes of children held for or at the direction of the Family Court pending adjudication of alleged juvenile delinquency or need for supervision. Juveniles may also be detained pending transfer to institutions or facilities while awaiting disposition after adjudication.

Discharge with a warning - The release of the child by the judge with a warning against further misconduct.

Dispositional hearing - In the case of a petition to determine delinquency, a hearing to determine whether the respondent requires supervision, treatment or confinement. In the case of a petition to determine need for supervision, a hearing to determine whether the respondent requires supervision or treatment.

Due Process - The protection a respondent has is derived from his/her constitutional guarantees including:

1-the right to counsel.
2-the right to remain silent.
3-the right to a fair hearing.
4-the right to cross-examine witnesses.

Fact-finding hearing - In the case of a petition to determine delinquency, a hearing to determine whether the respondent did the act alleged in the petition which, if done by an adult would constitute a crime. In the case of a petition to determine need for supervision, a hearing to determine whether the respondent did the act alleged to show that he violated a law or is incorrigible, ungovernable or habitually disobedient and beyond the control of his/her parents, guardian or legal custodian.

Family Court Act - The state statute that describes the jurisdictions, powers, and actions of the Family Court.

Juvenile Delinquent - A person at least 7 years of age and less than 16 years of age who commits an act that, if done by an adult, would constitute a crime.

Misdemeanor - An offense that is punishable by not more than 1 year in jail. (Criminal Court Term)

Non-secure detention facility - A facility characterized by the absence of physically restricting construction, hardware and procedures.

Order of Protection - A paper issued by a judge ordering that a parent, guardian, spouse, etc. provide proper care for, or refrain from abusing, the child, spouse, or other family member.

Penal Law (Code) - (criminal law) The code that defines the behavior that, when committed by adults, is punishable by imprisonment, fine or probation.

Permanently neglected child - A court adjudication terminating parental custody and rights on the grounds that the parent or guardian has failed for more than one year to maintain contact, plan or provide for the future of the child under the age of 18 who was placed in the care of an authorized agency, institution or foster home.

Person in Need of Supervision - (status offenders, PINS) A male or female less than 16 years of age who does not attend school, is incorrigible, habitually disobedient and beyond lawful control of parent or guardian or other lawful authority. These acts if committed by an adult would not constitute a crime. (status offenses)

Petition - In Family Court cases are referred to by type and the procedures of each case differ. The processing for each major category is initiated by filing a petition requesting that the Family Court hear that case.

Petitioner, Complainant - The complainant or victim of the alleged offense or the policeman who brings that fact to the attention of the authorities and files the petition.

Preliminary Hearing - The initial appearance(s) before a judge at which time the petition is read, rights explained, attorneys assigned, charges explained and future hearing dates set.

Probation Intake - That branch of the Probation Service which is authorized to interview petitioners and respondents before any contact with the court to see if that matter can be resolved without referral to the court. This out-of-court resolution is called "adjustment". Probation cannot compel anyone to appear nor deny anyone access to court.

Remand - An order by the judge that a child be kept at a detention facility while awaiting a hearing.

Secure detention facility - A facility characterized by physically restricting construction, hardware and procedures.

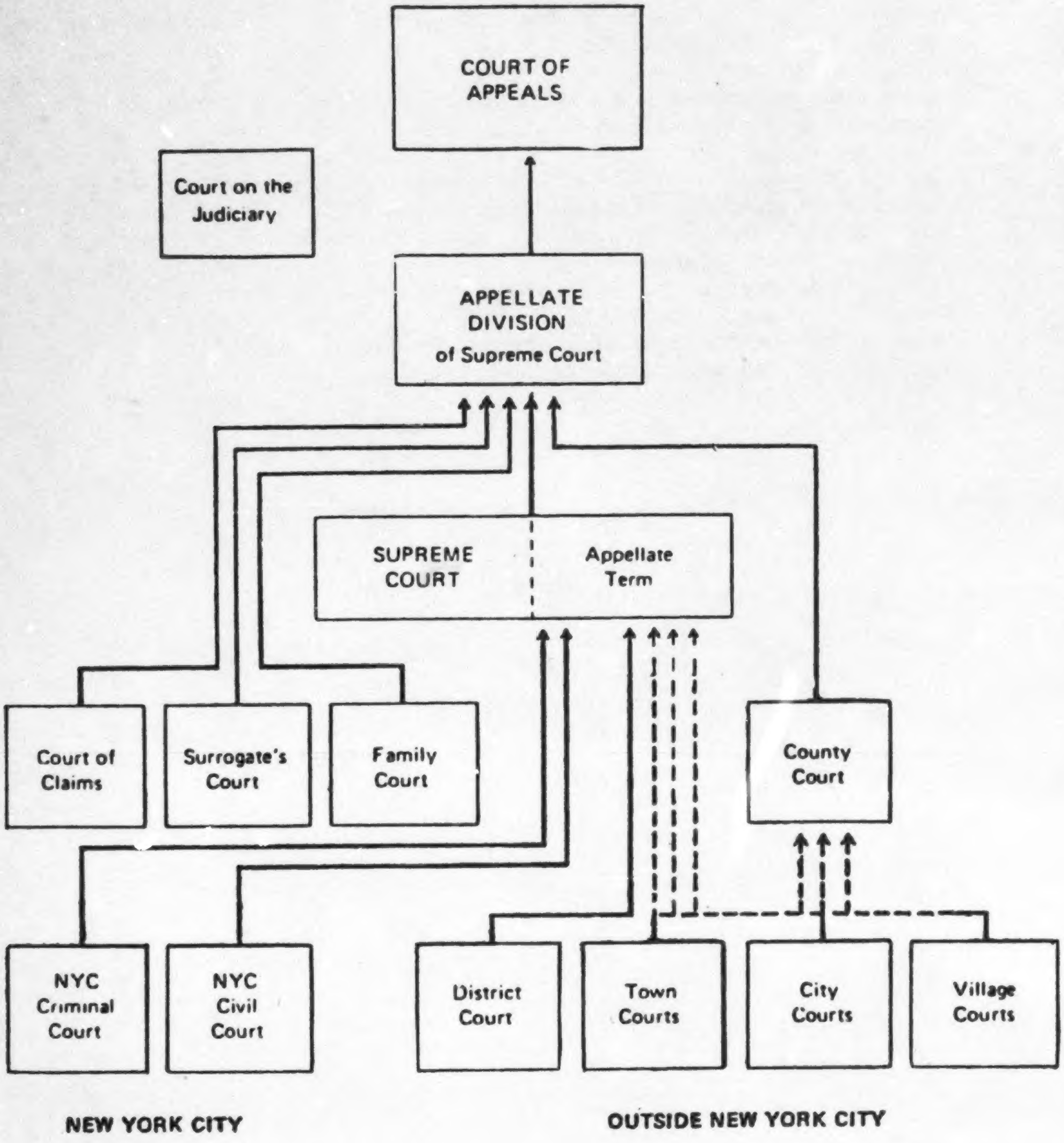
Violation - An offense that is punishable by not more than 15 days in jail. (Criminal Court Term)

Warrant/summons - A court order requiring either the arrest or the appearance in court of an individual.

Youthful Offender (Y.O.) - A person between the ages of 16 and 19 who is arrested for a criminal offense and will be tried in criminal court. He/she can receive some of the benefits of the juvenile justice system at the discretion of the presiding judge. If there has been no prior felony conviction, the judge may decide to seal the records and make special sentencing arrangements. No Youthful Offenders are in the Family Court since juveniles in the Family Court are between the ages of 7 and 16.

## APPENDIX A

## PRESENT NEW YORK STATE JUDICIAL SYSTEM


COURT OF APPEALS
Court on the Judiciary
APPELLATE DIVISION of Supreme Court
SUPREME COURT
Appellate Term
Court of Claims
Surrogate's Court
Family Court
County Court
NYC Criminal Court
NYC Civil Court
District Court
Town Courts
City Courts
Village Courts
NEW YORK CITY
OUTSIDE NEW YORK CITY

## APPENDIX B

## PRESENT NEW YORK STATE JUDICIAL SYSTEM

a-Court of Appeals - highest court of the state
- reviews questions of law
- reverses or amends decisions of lower court

b-Court on the Judiciary - special court convened to hear cases that may result in the removal, suspension or retirement of a judge of the Superior Court

c-Appellate Division of Supreme Court
- established in each of the State's 4 Judicial Departments
- resolves appeals from civil and criminal cases
- admits, suspends or disbars lawyers from lower courts

d-Supreme Court - hears cases involving felony prosecutions and indictable misdemeanors in N.Y.C.
- hears some civil matters, divorce, separation and annulment proceedings

e-Court of Claims - special trial court to determine claims against New York State

f-Surrogates Court - established in each county, hears cases involving probate of wills, adoption, and administration of estates.

g-Family Court - hears cases involving children and families
- abuse and neglect
- protection
- support
- delinquency and PINS

h-County Court - established in each county outside N.Y.C.
- handles prosecutions of crimes committed within the county and some civil matters
- holds arraignments in all types of arrest cases and preliminary hearings in felony arrest cases

i-N.Y.C. Criminal Court
- conducts trials on misdemeanors and violations

j-N.Y.C. Civil Court
- tries civil cases involving amounts up to $10,000

k-District
Town
City Courts
Village
- these are four categories of inferior courts outside N.Y.C. These courts handle minor cases including criminal matters.

# BIBLIOGRAPHY

A Caseworkers Guide to the New York State Juvenile Justice System; Marion C. Katzive; Vera Institute of Justice, 1975.

Children Without Justice; Edward Wakin; National Council of Jewish Women, 1975.

Corrections Magazine; Juvenile Justice in New York City; Steve Gettinger, June 1976.

Court Monitoring Handbook; Fern Schair; Fund for Modern Courts, Inc., October 1975.

Family Court Act; Practice Commentary, Daniel Besharov; McKinney's, 1975.

Family Court Law and Practice in New York; A. Aron; D. Samuels; M. Hutner; Acme Law Book Co., 1972.

Justice for Children; Lois Whitman, Flora Rothman; National Council of Jewish Women, April 1972.

Manual of Procedures of the Family Court of the City of New York; Economic Development Council, Inc., 1975.

The Child and the Law; Helping the Status Offender; Kathryn W. Bukhart; Public Affairs Committee; Pamphlet #530, December 1975.

## INSTRUCTIONS FOR MONITORS

Specific instructions for filling out court watchers' report forms will be given by each local coordinator and are not included in this handbook. The following advice is of a more general nature.

Do your homework! Read the handbook and attend the monthly training sessions. Ask questions about anything you do not understand.

Once the daily monitoring starts, make every effort to attend court on the day you are scheduled. If it is impossible for you to go that day, let your local coordinator know as far ahead of time as possible (at least 24 hours) so an alternate can be placed.

Get to court early - at least 15 minutes before it is scheduled to begin.

If any effort should be made to bar your attendance, do not argue: merely note the fact on your report form. (The same is true if you are denied any reasonable information or the opportunity to take notes). Please inform the local coordinator of any problem.

Introduce yourself to the Clerk of the Part, if possible, as an official observer from the Court Monitoring Project.

Sit where your local coordinator has suggested. If the judge asks you to sit somewhere else, don't argue.

Be as unobtrusive as possible in appearance and demeanor. NEVER INTERRUPT THE PROCEEDINGS. Always be courteous, no matter what the provocation.

REMAIN NEUTRAL. Do not betray your personal feelings by any facial expression or remark. If a judge or anyone else asks your opinion about anything that you have observed, refrain from commenting. Emphasize that you are merely collecting data and cannot speak for the Project. Refer the person to the local coordinator.

While you are observing, try to jot down all the data requested on the case observation forms. If you miss some of it, ask the clerk for the additional information during a recess or after adjournment.

Make no movies, photographs or tape recordings in the courtroom.

Note any special problems you encounter and any suggestions you wish to make on the back of your report form or report them to your local coordinator.

Please be reminded that you are observing confidential proceedings. Do not discuss the details of the proceedings you are observing.

☆ U. S. GOVERNMENT PRINTING OFFICE : 1977 260-992/4011

(CUT ALONG THIS LINE)

## CITIZEN COURT WATCHING:

### The Consumers' Perspective

To help LEAA better evaluate the usefulness of this document, the reader is requested to answer and return the following questions.

1. What is your general reaction to this document?
   - ☐ Excellent
   - ☐ Above Average
   - ☐ Average
   - ☐ Poor
   - ☐ Useless

2. To what extent do you see the document as being useful in terms of: (check one box on each line)

| | Highly Useful | Of Some Use | Not Useful |
|---|---|---|---|
| Modifying existing projects | ☐ | ☐ | ☐ |
| Training personnel | ☐ | ☐ | ☐ |
| Administering ongoing projects | ☐ | ☐ | ☐ |
| Providing new or important information | ☐ | ☐ | ☐ |
| Developing or implementing new projects | ☐ | ☐ | ☐ |

3. To what specific use, if any, have you put or do you plan to put this particular document?
   - ☐ Modifying existing projects
   - ☐ Training personnel
   - ☐ Administering ongoing projects
   - ☐ Developing or implementing new projects
   - ☐ Other: ______________________

4. Do you feel that further training or technical assistance is needed and desired on this topic? If so, please specify needs.

5. In what ways, if any, could the document be improved: (please specify, e.g. structure/organization; content/coverage; objectivity; writing style; other)

6. How did this document come to your attention? (check one or more)
   - ☐ LEAA mailing of package
   - ☐ Contact with LEAA staff
   - ☐ Your organization's library
   - ☐ Other (please specify) ______________________
   - ☐ LEAA Newsletter
   - ☐ National Criminal Justice Reference Service

7. Have you contacted or do you plan to contact the project site for further information?

8. Check ONE item below which best describes your affiliation with law enforcement or criminal justice. If the item checked has an asterisk (*), please also check the related level, i.e.,

☐ Federal ☐ State ☐ County ☐ Local

☐ Headquarters, LEAA
☐ LEAA Regional Office
☐ State Planning Agency
☐ Regional SPA Office
☐ College, University
☐ Commercial Industrial Firm
☐ Citizen Group
☐ Police *
☐ Court *
☐ Correctional Agency *
☐ Legislative Agency *
☐ Other Government Agency *
☐ Professional Associations *
☐ Crime Prevention Group *

FOLD

**U.S. DEPARTMENT OF JUSTICE**
**LAW ENFORCEMENT ASSISTANCE ADMINISTRATION**
**WASHINGTON, D.C. 20531**

**OFFICIAL BUSINESS**
**PENALTY FOR PRIVATE USE, $300**

POSTAGE AND FEES PAID
U.S. DEPARTMENT OF JUSTICE
JUS-436

U.S. MAIL

Director
Office of Development, Testing, and
Dissemination
National Institute of Law Enforcement
and Criminal Justice
U.S. Department of Justice
Washington, D.C. 20531

FOLD

(CUT ALONG THIS LINE)

9. Your Name______________________________________
Your Position_____________________________________
Organization or Agency______________________________
Address_________________________________________

Telephone Number Area Code:______ Number:__________________

10. If you are not currently registered with NCJRS and would like to be placed on their mailing list, check here. ☐